

1/2 Jan 23 C# 18

THE
TRIAL
OF
JOHN BINNS,
DEPUTY
OF THE
LONDON CORRESPONDING SOCIETY,
for
SEDITION.

BEFORE
MR. JUSTICE ASHHURST,
At the Assize held for the County of WARWICK,
On Saturday, August 12, 1797.

TAKEN IN SHORT-HAND
By Mr. HENRY BYNNER, Birmingham,
and
PUBLISHED BY THE DEFENDANT.

Second Edition.

"I am more and more convinced that the RESTORING THE RIGHT OF VOTING UNIVERSALLY to every man, not incapacitated by nature for want of reason, or by law for the commission of crimes, together with ANNUAL ELECTIONS, is the ONLY reform that can be effectual and permanent. I am FURTHER convinced that it is the ONLY Reform that is PRACTICABLE."

See the Duke of Richmond's letter to Col. Sharman.

Birmingham,

PRINTED BY JAMES BELCHER.

Sold by EVANS and BONE, Holborn; H. D. SYMONDS, Pater-noster Row; J. RIDGWAY, York-street; J. S. JORDAN, Fleet-street; and J. JOHNSON, St. Paul's Church-yard, London; sold also by J. MARCH, Norwich; J. MONTGOMERY, Sheffield; DUNN, Nottingham; and LUCKMAN and Co. Coventry.

1797.

8 200

JOHN B. BROWN

SECTION

MA. POLICE ASSISTANT

MA. POLICE ASSISTANT

MA. POLICE ASSISTANT

Rec. Jan. 19, 1906.

MA. POLICE ASSISTANT

DEDICATION.

TO THE JURY WHO TRIED THE CAUSE OF
THE KING AGAINST JOHN BINNS.

GENTLEMEN,

THE manner in which your verdict was delivered * precluding me from publicly expressing my sentiments, I embrace the present opportunity of communicating them.

To express individual gratitude when public good was the rule of your conduct, will afford you little satisfaction; but it is relief to the obliged, publicly to acknowledge obligations. To you, am I indebted for the enjoyments of Liberty—to your discrimination and firmness am I beholden for the blessings of social intercourse and domestic happiness—finally, to your judgment am I obliged for every thing which can render life desirable. To whom then can I, with propriety dedicate the following pages, but to the men who have given me liberty to publish them, and who have delivered me from the hands of my enemies.

Your verdict will confirm every man in the opinion, that Parliamentary Reform is a legal object of

* The verdict was delivered at the Judge's lodgings.

pursuit—and that a *physical* defence of Trial by Jury and the Liberty of the Press, *whenever* and by *whomsoever* attacked, is an obligation which they owe to themselves, and a duty which they owe to posterity.

Resistance to oppression is the right and duty of all men—with Britons it is not only a natural, but an acknowledged Constitutional Right—to the exercise of which they are indebted for Magna Charta and the Bill of Rights—in fine, to resistance are they indebted for every thing *worth preserving* in the British Constitution. To the practice of that fundamental duty is his Majesty indebted for the crown of these realms.

Your verdict, Gentlemen, will convince the people, that, that right remains with them, whenever circumstances shall justify them in the exercise of it.

May this immutable truth be engraven on every heart—and may every arm be raised in its defence, when the omnipotent voice of necessity shall demand it,

I remain, Gentlemen,

With respect and esteem,

Your obliged,

JOHN BINNS.

BIRMINGHAM, Sept. 1797.

INTRODUCTION.

INTRODUCTION.

AS there is a probability that many persons into whose hands the following trial may fall, are unacquainted with the circumstances which gave rise to it, I shall briefly state, for their information, such facts as I think necessary to elucidate the subsequent pages.

In consequence of an application from the Birmingham United Corresponding Society, to the Corresponding Society of London, for instructions how they were to proceed, and as to the legality of their association under the Treason and Sedition laws* (which had just then received the Royal assent) I was deputed to visit the society at Birmingham. On the 8th of March, 1796, I arrived at Birmingham, and from that day to the 16th had frequent opportunities of meeting the society, without interruption or interference, on the part of the magistrates.

On the 16th of March, dining at the Hen and Chickens Tavern, the waiter came into the room, and acquainted me there were some persons wished to speak with me. I followed him into the hall, where I found the Rev. Dr. Spencer, a *Justice of Peace* †, Mr. Busby, Headborough, and two troopers. The Justice enquired my name; I informed him; and he directly ordered the headborough to take me into custody.—I demanded by what authority—He would, not or could not produce any; but again repeated “take your prisoner.” It was in vain I protested against the illegality of my being apprehended without a warrant; He, as if above all law, said, “I will be accountable for the consequences.” Finding it was fruitless to oppose Law against *the* Justice, I acquiesced, and was conducted to prison.

The next morning early, I was brought before the sitting magistrates: here I again remonstrated on the violation of

* The number of petitions (to the House of Commons) in favor of some measures to prevent the growth of Sedition, were 65, and the number of signatures, as stated on presenting them, were 29,922. In opposition to the bills, there were 94 petitions presented, with 131,284 signatures. Thus a clear majority of 101,262 persons, actually declared against the bills passing into laws!

† He was one of the Justices at the time of the riots, 1791.

the liberty of the subject, which was committed upon me. The Dr. said, "You are apprehended, sir, by an order from the Secretary of State," which order he refused to shew; and again *ordered* me to prison. On this day I wrote some letters to my brother, and other friends, which were, before my face, broke open by the jailor, and then by him carried to Justice Hicks, who ordered them to be carried to Dr. Spencer; where the Doctor ordered them I have never been able to learn; but this I assure my readers, they were never delivered as directed. March 20, Mr. Taylor (the constable) this day had promised I should have a copy of my warrant; but like *other* great men, he is troubled with a *bad* memory.

About one o'clock, three Justices of Peace entered the prison, attended by a numerous groupe of government reporters, alias spies, one of whom carried a box of pamphlets (which had been sent down by the London Corresponding Society, but seized by the magistrates) this they broke open, and after examining the contents, nailed it up, and carried it off*.

On the 21st I received a copy of a warrant, by which I was *told* I was apprehended: although it was not signed by his Grace of Portland, or the Rector of Aston †, but by Justice Villers, and him alone.

I was this day brought, by a *private* way, to the *Public* Office; the principal entrance being locked, to disappoint the curiosity of the public, and prevent the attendance of friends. I was there charged, by the magistrate, with having attended an illegal meeting of more than fifty persons, and with having uttered *diver* seditious expressions, &c. On the 24th I was admitted to bail in the sum of one thousand four hundred pounds! to stand my trial on the above charges. "Excessive bail ought not to be required, or unusual punishments inflicted"—Bill of Rights. After I had given bail, and was going to depart, Dr. Spencer (with his usual shrewdness, and knowledge of the law) said, "I hope, Mr. Binns, you will take care how you offend *again*." "Sir (replied I) I shall always act agreeable to the *known* laws of the land, and it remains *yet* to be proved, whether I have offended against any such law; and if you do not know, give me leave to

* Notwithstanding repeated applications personally, and by letter, none of the contents of that box were ever returned. Is this the protection which the British Constitution affords to persons and property?

† Dr. Spencer.

inform you, that the law of this country presumes every man innocent, till found guilty by the verdict of a jury, I therefore think your observation very illtimed and very improper."

It is necessary to remark, that I never underwent any examination—nor was any witness examined in my presence, as to the words charged, or to identify my person.

At the Summer Assize, 1796, a bill was found by the grand jury of the county of Warwick, against me, for Sedition*. I then traversed the indictment, the crown removed it, by *Certiorari*, to the court of King's Bench, and I entered into bail in the sum of 1,000*l.* to abide the sentence of the court, on the indictment found.

My reason for traversing was, that I was wholly unacquainted with the words said to have been spoken, and therefore it was impossible to refute the charge.

At the Lent Assizes, 1797, I attended at Warwick, prepared with counsel, evidence, and every thing necessary to defend the cause, when it was again postponed, in consequence of the non-attendance of a sufficient number of special jurors.

Thus have I, as briefly as possible, and without remark, laid before you the circumstances which have led to, and attended this prosecution, from the beginning to the end.

I determined, from the moment the prosecution commenced, that no personal consideration should induce me to deny or soften any of the words by me delivered—upon that principle I have acted, and upon that principle I have been acquitted.

Upon the trial itself, the verdict of the jury is the best comment which can possibly be offered to the public.

I cannot resist the present opportunity of giving it, as my decided opinion, that persecution is only the harbinger of victory to the persecuted—that coercion never produces conciliation—and that ultimately truth *will* triumph over the opposition of the ignorant, the prejudiced, and the interested.

JOHN BINNS.

* There was but one bill preferred, though I was obliged, by the BIRMINGHAM Justices, to find bail on two distinct charges.

Birmingham, Sept. 1797.

INDICTMENT.

the liberty of the subject, which was committed upon me. The Dr. said, "You are apprehended, sir, by an order from the Secretary of State," which order he refused to shew; and again *ordered* me to prison. On this day I wrote some letters to my brother, and other friends, which were, before my face, broke open by the jailor, and then by him carried to Justice Hicks, who ordered them to be carried to Dr. Spencer; where the Doctor ordered them I have never been able to learn; but this I assure my readers, they were never delivered as directed. March 20, Mr. Taylor (the constable) this day had promised I should have a copy of my warrant; but like *other* great men, he is troubled with a *bad* memory.

About one o'clock, three Justices of Peace entered the prison, attended by a numerous groupe of government reporters, alias spies, one of whom carried a box of pamphlets (which had been sent down by the London Corresponding Society, but seized by the magistrates) this they broke open, and after examining the contents, nailed it up, and carried it off*.

On the 21st I received a copy of a warrant, by which I was *told* I was apprehended: although it was not signed by his Grace of Portland, or the Rector of Aston †, but by Justice Villers, and him alone.

I was this day brought, by a *private* way, to the *Public* Office; the principal entrance being locked, to disappoint the curiosity of the public, and prevent the attendance of friends. I was there charged, by the magistrate, with having attended an illegal meeting of more than fifty persons, and with having uttered *diver* seditious expressions, &c. On the 24th I was admitted to bail in the sum of one thousand four hundred pounds! to stand my trial on the above charges. "Excessive bail ought not to be required, or unusual punishments inflicted"—Bill of Rights. After I had given bail, and was going to depart, Dr. Spencer (with his usual shrewdness, and knowledge of the law) said, "I hope, Mr. Binns, you will take care how you offend *again*." "Sir (replied I) I shall always act agreeable to the *known* laws of the land, and it remains *yet* to be proved, whether I have offended against any such law; and if you do not know, give me leave to

* Notwithstanding repeated applications personally, and by letter, none of the contents of that box were ever returned. Is this the protection which the British Constitution affords to persons and property?

† Dr. Spencer.

inform you, that the law of this country presumes every man innocent, till found guilty by the verdict of a jury, I therefore think your observation very illtimed and very improper."

It is necessary to remark, that I never underwent any examination—nor was any witness examined in my presence, as to the words charged, or to identify my person.

At the Summer Assize, 1796, a bill was found by the grand jury of the county of Warwick, against me, for Sedition*. I then traversed the indictment, the crown removed it, by *Certiorari*, to the court of King's Bench, and I entered into bail in the sum of 1,000*l.* to abide the sentence of the court, on the indictment found.

My reason for traversing was, that I was wholly unacquainted with the words said to have been spoken, and therefore it was impossible to refute the charge.

At the Lent Assizes, 1797, I attended at Warwick, prepared with counsel, evidence, and every thing necessary to defend the cause, when it was again postponed, in consequence of the non-attendance of a sufficient number of special jurors.

Thus have I, as briefly as possible, and without remark, laid before you the circumstances which have led to, and attended this prosecution, from the beginning to the end.

I determined, from the moment the prosecution commenced, that no personal consideration should induce me to deny or soften any of the words by me delivered—upon that principle I have acted, and upon that principle I have been acquitted.

Upon the trial itself, the verdict of the jury is the best comment which can possibly be offered to the public.

I cannot resist the present opportunity of giving it, as my decided opinion, that persecution is only the harbinger of victory to the persecuted—that coercion never produces conciliation—and that ultimately truth *will* triumph over the opposition of the ignorant, the prejudiced, and the interested.

JOHN BINNS.

* There was but one bill preferred, though I was obliged, by the BIRMINGHAM Justices, to find bail on two distinct charges.

Birmingham, Sept. 1797.

INDICTMENT.

INDICTMENT.

Warwickshire, } **T**HE Jurors for our lord the king, upon
 [to wit.] } their oath present, That JOHN BINNS, late
 of Birmingham, in the county of Warwick, labourer*, being
 a malicious, seditious, and ill-disposed person, and greatly dis-
 affected to our said lord the king, and the government and
 constitution of this realm as by law established, on the eleventh
 day of March, in the thirty sixth year of the reign of our said
 lord the now king, at Birmingham, in the county of Warwick,
 did wickedly, unlawfully, and seditiously speak, publish, utter,
 and declare to and in the presence and hearing of divers liege
 subjects of our said lord the king, then and there assembled
 of and concerning our said lord the king, and the government,
 and constitution of this realm as by law established, and of
 and concerning a Reform in the Commons House of Parliament
 of this realm, and of and concerning Universal Suffrage in
 the election of persons to serve in the parliament of this king-
 dom, and of and concerning Annual Parliaments, and the
 means of obtaining the same, and also of and concerning the
 soldiers of our said lord the king, the scandalous, malicious,
 and seditious words following; (that is to say) His majesty
 (meaning our said lord the king) and his ministers are well
 convinced that, that (meaning universal suffrage in the election
 of persons to serve in the parliament of this kingdom and
 annual parliaments) is most conducive to the happiness of the
 people, and have granted it to Corsica, though he (meaning our
 said lord the king) has withheld that right from his natural
 subjects (meaning the people of this realm); our object is to
 obtain it by every peaceable means in our power; for it
 would be shocking to humanity to shed the blood of our fellow-
 creatures, but if they (meaning his said majesty and his
 ministers) continue obstinate, and there should be a time when
 force is necessary, to be used, I (meaning himself the said
 John Binns) hope that there is not a citizen in the room but
 would shed his last drop of blood either in the field or on the
 scaffold. You are not to think much of your own lives, for
 you are engaged in the cause of posterity; though the blood
 may flow from the axe down the block, it will sprinkle the
 earth, and a tree will arise that will spread its branches to future
 generations. If the soldiers (meaning the soldiers of our said
 lord the king) are called upon to act against you, like the
 National Guards who were called upon to fire on the people

* Meaning in the Vineyard of Liberty.

in the outset of the Revolution in France, they (meaning the soldiers of our said lord the king) will not dare to draw the trigger, or push the bayonet against the preservers of their freedom and their liberty; with intent to incite and stir up the people of this realm to hatred and contempt of the person of our said lord the king, and of the government and constitution of this realm as by law established, in contempt of our said lord the king) and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid upon their oaths aforesaid, do further present that the said John Binns, so being such person as aforesaid, afterwards (to wit) on the said eleventh day of March in the thirty-sixth year of the reign of our said lord the now king, at Birmingham aforesaid, in the county of Warwick aforesaid, did maliciously, wickedly, unlawfully, and seditiously speak, publish, utter, and declare to, and in the presence and hearing of divers liege subjects of our said lord the king, of and concerning our said lord the king, and the government and constitution of this realm as by law established, and of and concerning a reform of the Commons House of Parliament of this realm, and of and concerning Universal Suffrage in the election of persons to serve in the parliament of this kingdom, and Annual Parliaments, other the scandalous, malicious, and seditious words following; (that is to say) his majesty (meaning our said lord the king) and his ministers are well convinced that, that (meaning universal suffrage in the election of persons to serve in the parliament of this kingdom, and annual parliaments) is most conducive to the happiness of the people, and have granted it to Corsica, though he (meaning our said lord the king) has withheld that right from his natural subjects, (meaning the people of this realm) with intent to incite and stir up the people of this realm to hatred and contempt of the person of our said lord the king, and of the government and constitution of this realm as by law established, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the jurors aforesaid, upon their oaths aforesaid, do further present, that the aforesaid John Binns, so being such person as aforesaid, afterwards (to wit) on the said eleventh day of March, in the thirty-sixth year aforesaid, at Birmingham aforesaid, in the county of Warwick aforesaid, did maliciously, wickedly, unlawfully, and seditiously speak, publish utter, and declare to, and
in

in the presence and hearing of divers liege subjects of our said lord the king, of and concerning our said lord the king and his ministers by him intrusted and employed in the administration of his government, and of and concerning a reform in the parliament of this realm, and the means of obtaining the same, the scandalous, malicious, and seditious words following; (that is to say) our object is to obtain it (meaning a reform in the parliament of this kingdom) by every peaceable means in our power, for it would be shocking to humanity to shed the blood of our fellow creatures; but if they (meaning his said majesty's ministers) continue obstinate, and there should be a time when force is necessary to be used, I (meaning himself the said John Binns) hope there is not a citizen in the room but would shed his last drop of blood, either in the field or on the scaffold; with intent to incite and stir up the people of this realm to hatred and contempt of the person of our said lord the king, and of the government and constitution of this realm as by law established, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity. And the Jurors aforesaid, upon their oath aforesaid, do further present, that the aforesaid John Binns, so being such person as aforesaid, afterwards (to wit) on the said eleventh day of March, in the thirty-sixth year aforesaid, at Birmingham aforesaid, in the county of Warwick aforesaid, did maliciously, wickedly, unlawfully, and seditiously publish, utter, and declare to, and in the presence and hearing of divers liege subjects of our said lord the king, of and concerning the soldiers of our said lord the king, and how such soldiers would act if force should be used to obtain a reform in the parliament of this kingdom, other the scandalous, malicious and seditious words following; (that is to say) if the soldiers (meaning the soldiers of our said lord the king) were called upon to act against you, like the national guards who were called upon to fire on the people in the outset of the Revolution in France, they (meaning the said soldiers) would not dare to draw the trigger, or push the bayonet against the preservers of their freedom and their liberty; with intent to incite and stir up the people of this realm to hatred and contempt of the government and constitution of this realm as by law established, in contempt of our said lord the king and his laws, to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

WARWICK

WARWICK SUMMER ASSIZE,

TUESDAY, AUGUST 15, 1797.

Before Mr. Justice Ashurst,

THE KING

against

JOHN BINNS.

JURY*.

GEORGE HEMMING, of *Weddington*, Esq. Foreman.
WILLIAM HOLBEACH, of *Farnborough*, Esq.
SAMUEL AYLWORTH, of *Kenilworth*, Esq.
FRANCIS EDWARD HOLYOAKE, of *Little-Horn*, Esq.
ELIAS WEBB, of *Sherborne*, Esq.
CHARLES PALMER, of *Ladbroke*, Esq.
JOSEPH ARNOLD, of *Duddeston*, Gentleman.
SAMUEL BEAMISH, of *Bulkington*, Farmer.
THOMAS CHAPMAN, of *Wellesbourn Hastings*, Builder.
THOMAS GEARY, of *Attleborough*, Yeoman.
JAMES HAND, of *Attleborough*, Yeoman.
THOMAS WRIGHTON, of *Wootton*, Yeoman.

Counsel for the Prosecution.

Mr. PERCIVAL,
Mr. COKE,
Mr. BALGUY,
Mr. CLARKE.

—
Solicitors.

Mr. WHITE, Solicitor to the
Treasury.
Mr. SPURRIER, *Birmingham*.

Counsel for the Defendant.

Mr. ROMILLY,
Mr. READER,
Mr. FLETCHER,

—
Solicitors.

Messrs. SMART and Ros-
SEAU, *London*.

* The first six were Special Jurors, the others Tales.

(12)
[The Indictment was opened by Mr. CLARKE.]

MR. PERCIVAL.

May it please your Lordship—Gentlemen of the Jury,

IN the opening of this case (of the merits of which, *no doubt* can possibly remain in your minds, after hearing the evidence) I do not think it necessary to trouble you with many observations; and indeed if it were not the constant practice of the courts, in cases of this nature, I should not think it necessary to trouble you at all: I shall therefore content myself with briefly stating to you, the words, which I will prove, by the *most undeniable* evidence, to have been spoken by the Defendant: leaving it to you, gentlemen of the jury, to consider and determine, whether they could have been uttered with any other intention, than that mentioned in the indictment, and which constitutes the crime; namely, with intent to incite and stir up the people (his hearers) to hatred and contempt of the person of our Lord the King, and of the government and constitution of this realm, as by law established.

In the first place, I shall point out for your observation, a few leading facts, proper to be noticed, and which, it cannot be denied, are of a very *suspicious* complexion.

It was on the 11th of March, 1796, that Mr. Binns, being at Birmingham, *assembled* * a considerable number of persons at a public house, and harangued them, for a considerable time, on the subject of Parliamentary Reform: professing himself to be a member of the London Corresponding Society, from which he had letters of credit—with which he corresponded—by which he was delegated—to which he held himself accountable for his conduct, and from whose instructions he was not to swerve; openly asserting that the object of his mission was to establish, or confirm the establishment, of a similar society, to correspond with the society in London, and

* I did not assemble them, nor did I know three persons in the whole assembly.

to co-operate with that society, for the **PRETENDED** purpose of Reform *.

These, gentlemen, are facts, which, it must be owned, wear a *most* suspicious face. But I proceed, gentlemen, to state to you the precise words which I will prove him to have spoken, on the testimony of witnesses, whose credit cannot be shaken.

The words I shall first notice, and which are contained in the first count of the indictment, are, "That his majesty, and his ministers, were well convinced that annual parliaments and universal suffrage, were most conducive to the happiness of the people, and had granted it to Corsica, though he had refused it to his *natural subjects* †."

If, gentlemen, I shall prove these words, it is impossible you can for a moment imagine them to have been spoken with any other view than to sow the seeds of disaffection, and incite and stir up the people, as mentioned in the indictment, and which mischievous effect, they were very well calculated to produce.

But, gentlemen, he said further (as I shall also prove) "that it was their object to obtain it by every peaceable means in their power; for that it would be shocking to humanity to shed the blood of our fellow-creatures; but that if they (his majesty and his ministers) continue obstinate, and there should be a time when force is necessary to be used, that he (John Binns) hoped there was not a citizen in the room but would shed his last drop of blood, either in the field or on the scaffold. You are not to think much of your own lives (said he) for you are engaged in the cause of posterity; and though the blood may flow from the axe down the block, it will sprinkle the earth, and a tree will arise, that will spread its branches to future generations."

These are the words, gentlemen, which I take upon me to prove. In the first place, gentlemen, he asserts, that his

* The most unwearied assiduity of spies and informers, have never been able to prove, that the affiliated societies, have any other object in view than a Radical Reform in the House of Commons.

† These are very improbable words to put in the mouth of a man who is supposed to believe that every man is born equally independent, and that therefore, **NO MAN CAN BE THE NATURAL SUBJECT OF ANOTHER.**

majesty is well convinced that annual parliaments and universal suffrage, are most conducive to his people's happiness; that his majesty well knows what would make his people happy, and yet withholds this happiness from them; implying, that his majesty not only knows, but has the power to make his people happy if he would; for, says the defendant, he has granted these privileges to the people of Corsica, though he withholds them from his natural subjects; and thus charging his majesty with partiality towards his new subjects, and with injustice and oppression to his natural subjects, the people of this country.

You will indeed be told, by my learned friend, that the defendant did not speak these words of his majesty, but that he himself (John Binns) was well convinced that annual parliaments and universal suffrage, were most conducive to the happiness of the people; so far, so well; but, gentlemen, I will prove, on the oaths of two credible witnesses, that the words were spoken as laid in the indictment; and if I prove this, it is impossible to deduce any other inference from them, than that stated in the indictment.

Mr. Binns, after these *extraordinary* words, proceeds to say, "that their object was to obtain a Parliamentary Reform, by every peaceable means in their power;" and you will be told by my learned friend, that he recommended no other than legal and peaceable means. But, gentlemen, if this were the case, why talk of force? why talk of a time when force may be necessary to be used? why talk of a scaffold? of blood flowing from the axe, and sprinkling the earth? why talk of sacrificing our lives to posterity? are these, gentlemen, expressions of peace? No! the natural, the obvious, the only meaning that can be put upon these words, is, that peaceable means were indeed to be made use of, to be tried: but if these failed of their effect, then, force was to be applied, and men were to practise the *monstrous* doctrine of sacrificing their lives in the cause of posterity; this, gentlemen, is a *false philosophy*. It would indeed be shocking to humanity (said he) to shed the blood of our fellow-creatures; but if they continue obstinate, and a time should come when force is necessary to be used, you are not to think much of your own lives, for you are embarked in the cause of posterity; and I hope there is not a citizen in the room, but would shed his last drop of blood either in the field or on the scaffold.

Peaceable

Peaceable and legal means were to be first tried ; but if their demands were resisted ; if their wishes were not complied with ; then, it was that every sinew was to be braced, and they were not to mind shedding the blood of their fellow-creatures, or even to scruple sacrificing their own lives, either on the scaffold or in the field.

Gentlemen, you will not suppose I am sure that these are the sentiments of genuine patriotism, in which we are called upon to sacrifice those enjoyments and interests in which our nearest and dearest connexions are embarked with us, for the chimerical hope of improving the condition of posterity.

I pass on, gentlemen, to the remaining words in the indictment ; “ If (says he) the soldiers are called upon to act against you, like the National Guards, who were called upon to fire on the people, in the outset of the Revolution in France, they would not dare to draw the trigger, or push the bayonet against the preservers of their freedom and their liberty.”

Is, or is this not, gentlemen, a gross libel on the soldiery of this country ; and can you believe that the man, who having boldly held forth the doctrine of the necessity of force ; thus libellously insinuated, that all resistance would be rendered nugatory, because the spirit of the soldiery would not suffer them to act against the people, struggling in the cause of freedom : can you, I say, for a moment suppose that this man spoke from honest and patriotic motives, or from any other than those stated in the indictment ?

On this occasion, it will be impossible for my learned friend to allege the usual palliations of seditious speeches, namely, that they were uttered in the warmth of passion, in the zeal of argument, or in consequence of provocation. They were the cool, deliberate, and unprovoked words of a man, who had received no injury, and to whom no crime was imputed ; deliberately standing up, in a public manner, and proceeding without hindrance or molestation.

This customary plea, therefore, in palliations of inflammatory expressions, gentlemen, cannot apply in the present case.

Gentlemen, I would not, in the smallest degree, exert an undue influence over your judgment : if, after hearing the evidence which I shall adduce, and under all the circumstances of the case, you can believe that the defendant had no other intention than to enlighten the minds of the people,
and

and instruct them in the nature of their just and legal rights ; if you can believe, generally speaking, that his views were upright, whatever might be the doctrines he propagated (for, it is not the nature of the doctrine that you have to consider, as my lord will tell you) not whether a Reform in Parliament be necessary or desirable or not ; this is not the question you are to determine ; but whether he be guilty of the seditious intentions stated in the indictment.

If you are of opinion that his intentions were honest and patriotic, make him, by all means, every allowance for inadvertency of expression ; nay, fling into the scale a few, excuse him if you can, and however mistaken he may be in his opinions, acquit him ; for it would be wrong to affix that as a crime, which would be only an error in judgment. But if, on the contrary, you are of opinion, that instead of these honest and laudable intentions, he aimed only to inflame the minds of the people, and excite them to acts of outrage, and to hatred and contempt of his majesty's person and government, and of our happy constitution, you cannot honestly discharge your duty to God and your country, otherwise than by a firm verdict of conviction.

Gentlemen, I shall not trouble you with any more observations at present, but shall proceed to call the evidence.

EVIDENCE

EVIDENCE FOR THE PROSECUTION.

JOSEPH MASON GUEST *sworn*,

[Examined by Mr. COKE.]

Q. You live at Birmingham?—A. I do.

Q. Was you at Birmingham on the 11th of March, 1796?

A. I was.

Q. Do you recollect going that evening to the Swan public house in Swallow-street?—A. Perfectly well.

Q. At what hour?—A. Soon after eight.

Q. Did you find any body there you knew?—A. Yes.

Q. Name them.—A. I saw Mr. Benjamin Sutton, Mr. William Carver, and Mr. Richard Underhill.

Q. When you came there what did you do?

A. I enquired of the landlady if Mr. Jones was to lecture there? she replied, No; but that—

[Here the witness was interrupted by defendant's counsel, and desired to relate nothing but what was said by or in hearing of the defendant.]

Q. Who else did you find there?

A. I found Mr. Binns, and a large party.

Q. What do you mean by a large party?

A. About fifty or sixty persons.

Q. What was Mr. Binns doing?

A. He was speaking—said he was delegated by the London Corresponding Society—that delegates had been sent to Portsmouth, and various other parts of the kingdom; I understood him that *he* had lately been at Portsmouth—he read some resolutions of the *Portsmouth* Corresponding Society

Q. What did he do afterwards?

A. He read a list of rules, laid down for his instruction by the London Corresponding Society.

Q. Did he read these rules from a printed or a written paper?

A. I cannot say.

Q. How did he proceed afterwards?

A. He said he was not to swerve from his instructions—complained of the unequal representation of the people—said that Scotland sent 45 members to parliament, Cornwall as

B

many

many*—that the Cornish people had obtained those privileges by the spirit of resistance, which they had formerly shewn to their *oppressors*.

Q. What further did he say ?

A. He recommended universal suffrage and annual parliaments—said that his majesty was aware that such were most conducive to the happiness of his subjects, as he had granted it to Corsica, though he withheld those rights from his natural subjects.

Q. Before you proceed, tell us whether he named his majesty alone, or whether he added the name of any other person ?

A. I cannot be certain.

Q. What more did he say ?

A. Begged leave to quote from citizen Thomas Paine †, and said, " Suppose a man, possessing a certain property, should be entitled to a vote, and that property consisted of a mule; if the mule die, the man loses his vote; so that the mule has the vote, and not the man : " by the same rule, a man possessing a house, which intitled him to a vote, if he was deprived of the house, he lost his vote; therefore, the man had not the vote, but the bricks and mortar—he said, that when Mr. Pitt had been applied to, on the subject of Parliamentary Reform, in time of war, he said the time was improper; when the same application was made in time of peace, he also said the time was improper; Mr. Binns observed, that when Mr. Pitt was in place, the time was improper; and when out of place the time was proper ‡—he recommended them to use all the peaceable means in their power to obtain their ends, for that it was shocking to humanity *to think of shedding the blood of their fellow-creatures*.

Q. Did he say what their *ends* were ?

A. Universal suffrage, and annual parliaments.

* Cornwall contains 28,512 male inhabitants, of 21 years and upwards; pays annual land tax, 30,877l. 18. 4d. and returns FORTY FOUR members to parliament. Middlesex contains 114,723 male inhabitants, of 21 years and upwards; pays annual land tax, 308,770l. 13s. 4d. and returns EIGHT members to parliament. Who will presume to say that persons and property are not EQUALLY represented in England ?

† See Paine's Dissertation on first Principles of Government.

‡ Although the British Minister, on oath, forgot his exertions in the cause of Parliamentary Reform; the People have not forgotten his apostacy.

Q. I wish you would speak in the first person—not the effect, but the very words—say *I*—so and so.

[The witness, notwithstanding this intimation being twice given, continued to speak in the third person.]

A. But at the same time to be firm and determined—if their opponents continued obstinate—

Counsel. Take the plan I have chalked out, thus—if *your* *opposers*.

[A conversation ensued between Mr. Romilly and the examining counsel, on the impropriety of putting words into the witness's mouth—after some time the witness was suffered to proceed.]

If their opponents continued obstinate, and there should be a time when it may be necessary to use force, he hoped no citizen in the room would hesitate to shed the last drop of his blood, either in the field or on the scaffold—he said the lives of individuals were of little moment, when engaged in the cause of posterity—and that had our ancestors been fearful of laying down their lives for the public good, we should not have enjoyed many of the privileges which we do at this day. Though the blood might follow the axe, and stream down the block, it would sprinkle the earth, and a tree would arise, whose branches would extend to future generations.—He spoke of the soldiers, and said, that though they were shut up in barracks, and deprived of the means of conversing with their fellow-citizens, they were alive to the same feelings—that whether a man wore a brown coat, a black one, or a red one, his feelings were the same—and if they (meaning the soldiers) were called upon to fire on the people, like the soldiers that were ordered to fire upon the people in the onset of the French Revolution, they would not dare to draw the trigger or push the bayonet against the preservers of their freedom and their liberty.

Q. What else did he say?

A. He complained of the introduction of foreign troops into the kingdom; but I do not recollect much what he said concerning them.

Q. Did he call the French soldiers by any particular name?

A. I do not recollect.

Q. Where did you go to when you left the Swan?

A. To the Bell, in Suffolk-street, to find Mr. Jones.

[Here the witness was again desired to relate nothing but what passed in presence of the defendant.]

JOSEPH

JOSEPH MASON GUEST,

[Cross-examined by Mr. ROMILLY.]

Q. What is your profession,—A. I am a thread-maker.

Q. Are you a person who are much in the habit of reading?

A. I do read, but not much.

Q. Have you ever been in the habit of attending public meetings of any kind?—A. No.

Q. Have you been in the habit of exercising your memory much?—A. I have a pretty good memory.

Q. How many times did you peruse this speech before you got it by heart?

A. I have never learnt it by heart, I speak from recollection.

Q. Did you take any notes?—A. Yes.

Q. How long was it after the meeting when you made your notes?

A. About three or four days; as soon as I found my attendance would be necessary.

Q. You say it was about three or four days—do you mean to speak with accuracy?

A. Yes; it was about three days. I was sent for on Saturday; I think the meeting was on Friday. I saw Mr. Hicks, when he came and dispersed the meeting where Mr. Jones was. Mr. Hicks called on me on the morning of the 12th, the very next day, and I went on the same morning to the Public Office.

Q. What did you do at the Public Office?

A. Mr. Hicks desired I would relate what I had heard.

Q. Was it taken down?

A. Yes; it was taken down in the forenoon, before dinner.

Q. Why did you make notes?—A. I thought it necessary.

Q. Have you the notes about you?

A. No; they are at home in my desk.

Q. Were you at the last assize?—A. I was.

Q. Did you bring these notes with you then?—A. No.

Q. Pray tell me, why you did not bring them?

A. I did not think they would be necessary.

Q. What was your object in taking notes?

A. To refresh my memory.

Q. Then you are now speaking from the notes you made, and not from recollection?

A. I speak from both.

Q. How

Q. How many times did you ever read your notes ?

A. But once since the last assize.

Q. Do you mean the court should understand, the speech was delivered in the exact order you have given it ?

A. Not exactly in the same order.

Q. Did the parts immediately follow each other ?—A. No.

Q. Was mention made of the block before the soldiers ?

A. No : I think it was after.

Q. Were there any other parts of the speech delivered in a different order from what you have given ?

A. There probably might.

Q. Was the beginning the same ?—A. I think it was.

Q. But you have already told us the end was not ?

A. I think he concluded with the blood sprinkling the earth.

Q. What proportion of his whole speech have you given us ?

A. I cannot tell.

Q. Do you think it is half ?—A. It is impossible to say.

Q. Do you suppose it to be one fourth ?

A. Really I cannot say.

Q. I think I need not ask you whether you are friendly or hostile to the doctrines which you heard ?

A. Very hostile.

Q. I take it for granted, if, in the course of Mr. Binns's speech, he had said any thing more improper than you have stated, it must have made a very strong impression on you ?

A. It certainly would.

Q. You have told us of some resolutions of the London Corresponding Society—were they read ?

A. They were.

Q. Did you not say there were resolutions of the Portsmouth society ?

A. Yes*.

Q. Were there also read resolutions of the London Corresponding Society ?

A. No : they were rules or instructions.

Q. How many persons do you think were present at the meeting ?

A. More than sixty.

Q. Was it a large room.—A. It was not very large.

Q. Have you been in the room since ?—A. No.

* Until Guest had given his deposition, I never heard of, or saw, nor have I since seen any resolutions of the Portsmouth society, though I have the honor to be a member.

Q. Have

Q. Have you ever heard of the room having been measured, to try if it would hold fifty persons?—A. No.

Q. Are you not a member of the Buck's lodge?—A. I am.

Q. Pray did you ever there declare that you did not make minutes till eight or nine days after your deposition?

A. I do not recollect that I ever did.

Q. Who were present at the meeting that you know?

A. There was a Mr. Dixon, of Digbeth.

Q. Who else?

A. The two constables, Mr. Taylor and Mr. Atkins—and Mr. Wooldridge, keeper of the prison.

Q. Were they before the magistrate?—A. Yes, they were.

Q. Was their examination taken down?—A. I do not know.

Q. Do you remember Mr. Atkins assisting your memory when you were giving your deposition?

A. No: I do not.

Q. You was before the grand jury of course. Pray, was Mr. Atkins examined?

A. I do not know; I was examined separately.

Q. Do not you know that he was here on this very business the last assizes?

A. I know he was here, but I do not know what was his business.

Q. In the course of this long speech which you have told us, did Mr. Binns recommend peaceable conduct?

A. Yes.

Q. Once only, or more?—A. Only once.

Q. Do you recollect any thing more?

A. He said something about the London Corresponding Society establishing a pamphlet, or magazine, to make their proceedings as public as possible.

Q. What more?

A. He said it was not his wish to overturn the Constitution, but to confirm it.

Q. How did this business end?

A. When Mr. Binns had done speaking, the meeting broke up.

Q. Did every body go away peaceably?

A. There was a song in praise of citizen Erskine, and trial by jury.

Q. Was there no disturbance of any kind?

A. No; all was quiet.

Q. I

Q. I do not mean at the conclusion only; but at any other time?

A. I saw no disturbance.

Q. Have you, as nearly as possible, stated the exact words.

A. I have.

[Mr. COKE.]

Q. You made your notes on the Monday following the meeting?

A. Yes.

Q. And was examined on the Saturday?—A. I was.

Q. You saw the two constables at the meeting?—A. Yes.

Q. Did they stay the whole time?

A. No; I saw them go in and out.

Q. At the conclusion of the meeting was another appointed?

A. Yes.

BENJAMIN SUTTON, *sworn*.

[Examined by Mr. BALGUY.]

Q. Do you remember being at the Swan public house, on the 11th of March, 1796?

A. Perfectly well.

Q. What time did you go?

A. Betwixt the hours of seven and eight.

Q. Did you go alone, or in company?

A. I went with Mr. Guest, Mr. Carver, and Mr. Underhill.

Q. Has any thing happened to Mr. Carver since?

A. He has been very unwell.

Q. Did you see Mr. Binns?

A. He came in some time afterwards*.

Q. Was he in a room in that house?

A. He was—in company with other persons.

Q. Who were those other persons?

A. Cannot say—they were sitting round two or three tables.

Q. How many in number?

A. Cannot judge of their number—many came in afterwards.

* The witness Guest deposed, that he FOUND ME, and a large party IN THE ROOM. One of these witnesses must be MISTAKEN, to use so harsher language.

Q. Do

Q. Do you remember Mr. Binns beginning to discourse?

A. Yes.

Q. How many were there in the room?—A. Cannot tell.

Q. How many do you think at the fewest?

A. More than sixty I am convinced.

Q. Tell us, as nearly as you can, what he said?

A. He said he was delegated by the London Corresponding Society, to form societies in the country, to correspond with that in London—the mode of correspondence he should point out to a committee—that letters had been often intercepted and opened, which prevented a close co-operation, and frequent intercourse between the country societies, and that in London—that the society had furnished him with a set of instructions, from which he was in no wise to depart; for if he were, the society would not be accountable for his conduct—that as men differ respecting the forms of government, their object was to be obtained by every peaceable and legal means.

Q. What object?

A. Universal suffrage and annual parliaments.

Q. I am desired to ask you, whether you are speaking from what he said, or from his instructions?

A. It was in consequence of his instructions.

Q. Proceed.

A. He said that his majesty and his ministers were aware that it was not *inconsistent* with the happiness of his people, as he had granted it to Corsica, though he had refused it to his natural subjects.

Mr. Justice Ashurst. What do you understand was not inconsistent with the happiness of his people?

A. Annual parliaments, and universal suffrage, my lord.

Mr. Justice Ashurst. Proceed.

In the course of his speech, he inveighed against the introduction of foreign troops, it having been the custom of men, who were about to undermine the constitution, to do it by means of mercenaries—Foreigners could not be supposed to have the same interest in the welfare of a country, as a native—and whether a man wore a red coat or a black one, he still had, among the people, his dearest connexions—Upon this principle it was, that the soldiers of France refused to push the bayonet or draw the trigger, against the people—on this account he reprobated the conduct of burying soldiers in barracks

racks—he read from some pamphlet*, which he said no one had dared to contradict, that a majority of the House of Commons was nominally returned by about 5000 persons—but *actually* by a much less number; I think he said about 150—said that Cornwall returned as many members as Scotland—a privilege which they obtained by the spirit of resistance they had shewn to their *invaders*—Charters, he said, were oppressive; inasmuch as they deprived one set of people of their rights to give them to another.

Q. Did he say any thing of the means by which a change was to be brought about?

A. I understood it was to be brought about by peaceable means.

Q. Did he say any thing about posterity?

A. He said it was a duty we owed to posterity; but I cannot charge my memory with particulars.

Q. Did you not say he spoke of the soldiers of France?

A. I understood it of them.

Q. Did he distinguish them by any particular name?

A. I think he called them National Guards.

Q. National guards do you say?—A. Yes.

Q. What did he say about the soldiery of this country?

A. That they would not push the bayonet or draw the trigger against the people—but I am not certain of these points.

Q. Did he say any thing about barracks?—A. I think he did.

BENJAMIN SUTTON,

[Cross-examined by Mr. READER.]

Q. What trade are you, Mr. Sutton?—A. A button-maker.

Q. Did not you say that Mr. Carver, and Mr. Underhill, accompanied you to the meeting?—A. Yes.

Q. Did you say that Mr. Carver had been very unwell?

A. Yes; he has been deranged in his mind.

Q. What is become of Mr. Underhill?

A. He is now at Birmingham—I saw him a few days ago.

Q. Have you been in the habit of attending public speakers much?

* The pamphlet alluded to, was the petition of the Friends of the People, to the House of Commons, in which they declare, and offer to prove on oath, that 162 peers and commoners, assisted by the treasury, return 306 out of the 513 English members, who have seats in that house. The House not choosing to go into the enquiry, the petition was entered on the journals, where it now is.

A. Never—except a debating society, there was some time ago at Birmingham.

Q. Do you exercise your memory much?—A. Not much.

Q. Do you go to church?—A. Sometimes.

Q. Do you recollect as much of any discourse you have ever heard at church, as you do of this speech of Mr. Binns's?

A. Cannot say I do.

Q. Did you and the last witness stand together?

A. I think we did.

Q. What you heard it is most likely he heard also?—A. Yes.

Q. And what he heard you must have heard also?

A. Certainly.

Q. Pray what size was the room?

A. It was a small room.

Q. A small room, do you say?

A. It was not a very large one.

Q. Was it large enough to contain fifty persons?—A. Yes.

Q. Would it contain sixty persons?—Yes, or more.

Q. Pray how many would it contain—you say it was a small room?—A. Cannot say exactly.

Q. Were the company sitting or standing?

A. When we went they were standing.

Q. Did the majority sit or stand afterwards?

A. The majority were standing.

Q. Was the room as full as it would hold?

A. It might have held more—but it was thronged.

Q. Mr. Guest was with you the whole time?—A. He was.

Q. You had each of you, therefore, the same opportunity of hearing?—A. To be sure.

Q. You have repeated all that you heard?

A. All that I recollect.

Q. If any thing else had been said more material, or as material, it must have struck you?

A. I did not go there for the purpose of giving information.

Q. You did not go there for the purpose of giving information—I take it for granted you did not go with any great friendship for Mr. Binns, or for the doctrines you expected he would deliver?

A. I had no personal enmity to Mr. Binns.

Q. But to his political opinions you were rather hostile?

A. I must own I was.

Q. Do you know whether there was a society meeting at Birmingham before Mr. Binns came?

A. I never heard till then that there had been a meeting.

Q. Pray, sir, did you take any notes in writing?—*A.* I did.

Q. How long was it after the meeting before you made any notes in writing?

A. As soon as I knew it was likely I might be called upon.

Q. How long was it?—*A.* Cannot exactly tell.

Q. Be so good as to speak to the best of your recollection?

A. I really cannot tell.

Q. Was it a month afterwards?—*A.* It was not a month.

Q. And you had not till then taken any notes?

A. Not till then.

Q. I understand you it was nearly a month before you made your notes.—Now are you certain, at this distance of time, that he made use of the words, "his majesty and his ministers?" *A.* Yes, I am.

Q. Did he not say his majesty alone?

A. To the best of my knowledge he said his majesty and his ministers.

Q. Mr. Sutton, I am not attacking your reputation; but do you mean to swear that he said his majesty and his ministers?

A. To the best of my recollection he said so.

Q. You wont, therefore, take upon you to swear that he did not confine it to his majesty alone?

A. I cannot swear that.

Q. You have spoken of a pamphlet; pray do you know whether it was one published by the Friends of the People?

A. Cannot say.

(Mr. BALGUY.)

You say it might be a month after the meeting when you made your notes?—*A.* Not a month.

Q. You have said that you were in a situation where you could hear the very words?—*A.* I was.

Q. Though you have given us all you know to the best of your recollection, you do not mean to say, that another might not recollect more?—*A.* No; certainly not.

✍ *Here the Evidence for the Prosecution closed.*

MR. ROMILLY.

My Lord, and Gentlemen of the Jury,

IN this case you will observe, that the evidence which you have heard have not only varied as to the words contained in all the counts of the indictment, but materially from each other. In the first place, the defendant is charged in the indictment with having said, "that his majesty and his ministers are *well convinced* that annual parliaments and universal suffrage are *most conducive* to the happiness of his people, and have granted it to Corsica, though he has withheld that right from his natural subjects." Two witnesses have been called to prove these words—In the first place, Mr. Guest says, that the words spoken were, that his *majesty was aware* (not coupling the name of any other person with that of his majesty, although his majesty and his ministers, are the words laid in the indictment) that such was *most conducive* to the happiness of his subjects;—this is very different from what is stated in the indictment: but the evidence of the other witness, Mr. Sutton, is totally different; for instead of saying that it is *most conducive* to the happiness of his people, he says, it is not *inconsistent* with the happiness of his people. Now there is a great difference between these expressions; for there is certainly no crime in withholding from his people, that which is not inconsistent with their happiness; for though it be not inconsistent, it may not be absolutely necessary for their happiness. And there certainly is a most material difference in not granting that which is necessary; from withholding that which is not inconsistent. Thus you observe, gentlemen, that neither of the witnesses swear to the words in the indictment; and both materially contradict each other: these words contained in the second count of the indictment, therefore, are not proved.

I proceed, gentlemen, to notice the words contained in the third count, "Our object is to obtain it by every peaceable means in our power, for it would be shocking to humanity to shed the blood of our fellow creatures; but if they continue obstinate, and there should be a time when force is necessary

necessary to be used, I hope there is not a citizen in the room but would shed his last drop of blood, either in the field or on the scaffold."

Gentlemen, only one of the witnesses attempts to prove these words, it is Mr. Guest, and he says, that the words were, if *their opponents* continued obstinate, and so forth; these, gentlemen, are the very words. The witness says, he recommended them to use all the peaceable means in their power; but if *their opponents* continued obstinate, and there should be a time when force is necessary to be used, and so forth.

I think, gentlemen, I need not tell you, that these words are very different from those stated in the indictment, and will bear a very different meaning. You will be told, perhaps, by my learned friend, that they are the same in effect; but this is not to the purpose. You, gentlemen, are only to judge of the words, and not what effect they might possibly produce; surely it is hardly necessary to say this, at this time of day. Their opponents might not mean his majesty and his ministers—it might mean any other opponents to legal and constitutional measures: and with respect to what is contained additional in the first count, it can only be considered as forming part of an abstract proposition, which can have no particular application to the present case. The exact words of the witness are, that had our ancestors been fearful of laying down their lives for the public good, we should not have enjoyed many of the privileges we do at this day. "Though the blood might follow the axe, and stream down the block, it would sprinkle the earth, and a tree would arise whose branches would extend to future generations." You see, gentlemen, that in this connexion the words contained exclusively in the first count of the indictment, only form a part of an abstract proposition, which has no immediate reference to any particular case; and therefore, gentlemen, from these considerations, I take upon me to say, that the charge contained in the third count of the indictment also is not proved.

I now come, gentlemen, to the fourth and last count; the words here are—"If the soldiers were called upon to *act against you*, like the *national guards*, who were called upon to fire on the people in the *outset* of the revolution in France, they would not dare to draw the trigger, or push the bayonet against the preservers of their freedom and their liberty."

The

The words of the first witness are—if they (the soldiers) were called upon to *fire on the people*, like the *soldiers* that were ordered to fire upon the people in the *onset* of the French Revolution, they would not dare to draw the trigger, and so forth.

Here we have three variations—*onset* instead of *onset*; *soldiers* instead of *national guards*; and *fire upon* instead of *act against*. Now there is a great deal of difference in these terms, and they can never be used with any propriety the one for the other: the national guards of France were very different from the soldiery, and were a kind of national militia, created for the purpose of supporting the Revolution: no soldiery, bearing such a name, had any existence in France before the revolution. *Onset* means an attack, an assault; and had this word been used in the indictment, it must have been accompanied with an inuendo, which we do not find there. You will therefore observe, gentlemen, that the evidence of this witness is by no means conclusive.

Mr. Sutton, the second witness, has proved nothing at all, except that he made use of the words “national guards;” stating that something had passed in France, without any allusion to any thing in this country; though my learned friend put that question to him, which the witness could not answer. I submit it to your Lordship;—after the crown evidence have thus varied from each other, and both of them from the indictment, whether there is evidence sufficient to refer this case to the gentlemen of the jury.

Mr. Justice Abhurst. I should be glad to hear what the counsel for the prosecution have to state in reply,

MR. PERCIVAL.

My Lord, and Gentlemen of the Jury,

MY learned friend has been endeavouring to establish a mode of proof, which would make it absolutely impossible ever to obtain conviction—That if there be the slightest error in recollection, the smallest slip, the most trivial variation in words, it shall not amount to a legal proof—but,
Gentlemen

Gentlemen, it is not necessary, as my learned friend well knows, to prove every word; it is sufficient if enough be proved to enable the Jury to form a judgment, as to the guilt or innocence of the defendant; and upon this ground I am ready to meet my learned friend.

And in the first place, with respect to the matter contained in the second count:—the first thing to be noticed is the witness's leaving out the word *ministers*, omitting to speak distinctly of his majesty and his ministers, and saying it was his majesty alone:—the next variation is, *aware*; instead of being well convinced. Gentlemen, you will observe that what is defective in one witness, is supplied by the other; and this ought to be satisfactory, even were the variations more material. Can it be doubted that the words *aware*, and *well convinced*, in this connexion, mean exactly the same thing.

Again; the *people*, and his *subjects*, are words importing exactly the same thing in this connexion. The same argument will apply to the expressions, *most conducive*, and *not inconsistent*; the difference is not material.

With respect to the third count, the only question is whether *their opponents*, which are the words used by the witness, mean his majesty and his ministers—my learned friend here speaks with great confidence, and says, they may signify any other opponents to legal and constitutional measures; but in this connexion it is impossible to put any such construction upon them, and if they mean any thing at all, they must mean his majesty and his ministers:—You will observe, gentlemen, the witness has sworn that the defendant spoke of a reform in parliament, of universal suffrage, and annual parliaments, as the basis of this reform; that his majesty was aware that such was most conducive to the happiness of his subjects, and that all peaceable means were to be made use of to obtain this end; *but if they continue obstinate—who? who continue obstinate?* can it mean any thing else than his majesty and his ministers? I am sure, gentlemen, I need say no more: and do not scruple to affirm, that this count (the third) is sufficiently proved, both in substance and import.

I come now to the fourth count:—if the soldiers were called upon to act against you, and so forth. Here the only variation is that the word *soldiers* is used by the witness, instead of *national guards*;—and the phrase,—*fire upon*, is used instead of *act against them*. Is it possible, gentlemen, you can attach any weight to objections made on such grounds.

A great

A great deal has been said by my learned friend, to prove that national guards are very different from soldiers, and that onset is a different word from outset;—you will observe, gentlemen, that the first witness used the word soldiers; but Mr. Sutton, the other witness, thinks the words were national guards. As to onset and outset, I think it totally unnecessary to trouble you farther; and shall leave it to your decision.

MR. ROMILLY.

My Lord, and Gentlemen of the Jury,

I SHALL take up little of your time in answering the objections of my learned friend. He has shewn you what dangerous consequences would follow if prosecutors were to be bound up too strictly to truth. I am sure there have been causes enow of this nature of late, and certain it is, there never has been a cause of this kind come before the courts, wherein this objection has not been urged:

It has been stated to you, gentlemen, that in the variations which I pointed out to your notice, most of the words are nearly synonymous. My learned friend well knows, that if this man should have the hard fortune to be convicted, which I hope and believe he will not, the Court of King's Bench would be called upon to inflict the severest punishment which the laws have put in its power: and your Lordship, sitting in the Court of King's Bench, well knows, that you would be told, in express terms, that this man had the impudence to say so and so. Your Lordship would not be called upon to pass sentence according to the evidence which had been adduced, but according to the words which are to be found on the records of that court (in the present cause) it being presumed that the words on the record, and those only, were or could be the words which the defendant could be found guilty of having uttered; and these words would be rung in your Lordship's ear, as the most daring and inflammatory which could possibly have been delivered. You have been told that *opponents* in this case means exactly the same thing as the king and his ministers, and it will be said, in express terms,

terms, that he hoped there was not a citizen in the room but would be willing to shed his last drop of blood in resisting the attempts of the king and his ministers. But will any person say that the words, "their opponents," must necessarily mean the king and his ministers? or can any person of common sense for a moment believe that it can possibly mean them?

The next variation is with respect to the words *subjects* and *people*. In this place the word may be applied as an abstract term to people in general; and may also be applied, with equal propriety, to the people of any other country, as to the people of England.

With respect to the fourth count, I beg leave to repeat the words of the first witness, and as to the second, he does not attempt to prove any thing: The words of the first are—that whether a man wore a brown coat, a black one, or a red one, his feelings were the same; and if *they* were called upon to fire on the people, like the soldiers that were ordered to fire upon the people in the onset of the French Revolution, they would not dare, and so forth: now is there no difference between these words, and those contained in the indictment; must *they* necessarily, or can *they* possibly be tortured to mean the same thing? Your lordship observes, that what goes before is not soldiers, but "whether a man wears a black coat, a brown coat, or a red one." *They* is a relative term which may relate to any citizen of a state, of what profession soever he be; and this sense ought to be put upon the words as most obvious and natural. It is true, as my learned friend argues, that the question is not whether the words be literally proved; but I contend that neither the substance or import of the words have been proved; and nothing can be more dangerous than the doctrine which has been advanced by my learned friend, and the precedent which he wishes to establish.

Mr. Justice Ashurst conceiving that the counsel wished to rest the merits of the case on what had already been advanced, was proceeding to address the jury, when he was interrupted by

Mr. Ranelagh. If your Lordship thinks there is any thing for the jury to decide, I mean to address them.

Mr. Justice Ashurst. I shall certainly refer it to the jury: By the late act of parliament, they are the judges of the meaning as well as the fact.

Mr. Romilly. My Lord; I submit it to your Lordship with, great deference, that, that act of parliament relates only to libels. Libel, is the word every where made use of.

Mr. Justice Ashurst. This is a libel.

Mr. Romilly. No, my lord, this is an indictment for words charged to have been spoken, which is a material difference.

Mr. Justice Ashurst. Make your speech, I shall then address the jury.

Mr. Romilly. Your Lordship then thinks there is no force in the legal objection.

Mr. Justice Ashurst. If the words proved are the same in meaning, though not the precise words charged, the jury must decide.

MR. ROMILLY.

Gentlemen of the Jury,

IF this cause were to be decided by party spirit, or prejudice, it would be to little purpose to set up any defence; but I have not the least doubt, gentlemen, but that you will discharge from your minds every thing like party spirit, and as much as in your power lies, divest yourselves of any prejudices which you may have imbibed against the defendant; and I have no doubt but your decision will be what it ought to be: and when I consider upon what flimsy testimony the charges rest, and recollect what substantial evidence I might adduce, on the part of the defendant, I am convinced, gentlemen, whatever may be your dispositions, and however prejudiced against the defendant (which I dare say is not the case) when you have maturely weighed in your own minds the whole of the evidence, I am convinced, I say, that you cannot honestly discharge your duty before God, and your country, unless you find a verdict for the defendant. In what I have to say to you, I shall not endeavor to inflame your passions, or bias your judgment; but shall confine myself strictly to the evidence. I shall not endeavor to prove that the doctrines to be found in the indictment, is any thing like genuine patriotism. Mr. Binns has not instructed me to defend those doctrines. What I am to prove, and what I hope to prove before

before I have done is, that neither the words, nor the substance of what is stated in the indictment, were spoken by the defendant, in the manner, or with the intention there stated.

You might observe, gentlemen, that I did not press the witness * much in my cross-examination; but I think I can prove that he has not spoken the truth, but that he is *perjured*; and this I can prove from his own evidence alone.

He has repeated to you what he heard in the course of a very long speech: and he does not pretend to deny that there are frequent chasms, that he gives you only detached parts: he does not undertake to prove that they followed one another, or that they were spoken in the same order. When I asked him whether he had learnt what he had to say by heart, my object was to know whether he had been instructed, or had spoken from recollection. I should have been extremely glad to have seen his notes; for it is plain that the contents of the paper that has been put into his hands, constitutes his evidence, and not what he recollects. It appears he has been extremely careful to preserve his notes, but has not brought them on the only material occasion; and you see, gentlemen, that this was not done accidentally, but on purpose, for he told us that he did not bring them to the *last* assize. So that you perceive, gentlemen, he invariably leaves his notes at home, whenever there is a probability of their being called for.

I shall prove, gentlemen, that *he is perjured*, and that he speaks from the paper, and not from his recollection. There is a material proof of this in mistaking the word onset for outset; it is impossible, gentlemen, for a man to have fallen into this mistake, but in consequence of learning by heart; and in reading or recollecting what he had read, it is very easy for him to mistake the word onset for outset, or outset for onset. He now swears positively, that the word was onset; and this is demonstration to my learned friend; but I ask how came the word outset into the indictment, which was evidently drawn from the testimony of this witness.

Mr. Justice Ashburst. Is it onset in the indictment?

No, my Lord, outset.

I shall say something on the learned judge's having left it to you to decide, whether the words are in substance the same; but I shall not do it at this moment.

* Joseph Mason Guest

There are only two witnesses which are produced on the part of the prosecution. Mr. Underhill was present, but he is not called: and there can be no other reason why he is not called; but that he would have disproved what the others have sworn; for if the prosecutors have been at the trouble to bring to the assizes a madman, in order to see whether he would have any lucid interval, in which to give evidence, certain it is, they would have brought Mr. Underhill, a man who is in his senses, if he could have proved any thing; and a man whom they might easily have procured (if they had wished) as one of the crown evidence acknowledges he saw him in Birmingham a few days ago. There were also other persons who might have been brought here to give evidence, Mr. Wooldridge, the keeper of the prison; and Mr. Taylor and Mr. Atkins, the two constables, were present. It must be granted, that these would have been, on many accounts, very proper persons. Mr. Wooldridge I saw this morning myself in court, and he must have been extremely proud to have been called, on this occasion, to prove his loyalty; and why he is not, I can give no other reason than what I just now stated; namely, that he could prove nothing to criminate the defendant.

You will observe, gentlemen, that in asking the number of the company present, as falling within the late act, I did it only to shew that the room could not possibly contain that number; because our cause, in some measure, depends upon discrediting the crown witnesses.

With regard to the notes of Mr. Sutton, they would have been of no use, because they were made at too great a length of time after the meeting.

Gentlemen, you have, doubtless, paid particular attention to what has been said respecting the variations in the evidence and the indictment. Let me ask you, gentlemen, whether you can possibly think the words *awake*, and *well-convicted*, mean the same thing—but you must say they mean the same thing, or you cannot convict the defendant—you must also say that *not inconsistent* and *most conducive*, mean the same thing; and as my learned friend would have you, you must also say that *onset* and *offset* mean the same thing; and you must say that *soldiers*, and *national guards* mean exactly the same thing. If the first witness speaks truth, the last does not; and if the last speaks truth, the first does not. Gentlemen, if on this evidence you convict the defendant, no
man

man will be safe. One man may say this—and another may say that—it may be carried, by some informer, to the treasury, and both may be convicted on the evidence of words totally different from what they had delivered. The prosecutor acts without restraint—he endeavors to extenuate now, by and by it will be his interest to strengthen—and gentlemen, if on such evidence as has been adduced, you convict the defendant, it will be most dangerous for a person to use any expression, which has the slightest allusion to public affairs.

If after all—these variations are only the result of accident; I must say it is a very singular accident. As to the expressions relative to Corsica, I would here just observe, that there may be no crime in withholding that from one country, which is granted to another; for it might happen to suit the interests of one country, and not of the other. There is a material difference, gentlemen, between establishing a constitution for a state, which for the first time comes under your dominion, and making alterations in a constitution which has been long settled. Government might, therefore, withhold this privilege, and yet be entitled to veneration.

I now proceed to notice the words sworn to by the witness, relative to the third count.

“But if their opponents continue obstinate,” and so forth.

Now there are two ways of explaining this passage—he might mean literally what he said, which I do most firmly believe—the other sense is that, gentlemen, which my learned friend puts upon them; and here let me complain, that he has said so little at the opening of this prosecution, doubtless it is, because he has reserved himself for a reply, when he knows I can have no opportunity to answer him.

But in whatever sense the expression might have been used, the principle must in its own nature be good: observe, gentlemen, the arguments of the learned special pleader, do you suppose it possible that a man can be always mistaken? You are to consider, gentlemen, whether the word opponents in this place, could mean the king and his ministers; or whether it might not possibly mean that a large party in this country, who oppose, with violence, even the most legal associations, when they are associated for the purpose of obtaining a Parliamentary Reform—that party whose prejudices prevent them from doing justice to the opinions of others, when they differ from those which they themselves profess.

I need

I need not tell you, gentlemen, that Birmingham is a place where violence has been known and felt; where the most wanton and flagrant breaches of the public tranquillity have been committed, under the influence of blind prejudice, inflamed by the artful and the interested:—where innocence and virtue have been injured, under the mask of an attachment to the government.

You are now in your consciences to say, that because a man has been talking of the king and his ministers, all that is stated by the witness to have been said alluded to the king and his ministers—if there is one of you, gentlemen, who can sleep in your beds after saying this—if disconnected sentences are thus to be dragged out for proof, you must suppress all public conversation. For God's sake, though we are slaves, let us not be intentionally so!

I proceed to the fourth count. I am tired, gentlemen, of repeating to you the words—no man in this country can be so ignorant as not to know the difference between soldiers and national guards—and as to onset and offset, I leave it to you to decide. *Enough* has been said.

[Here Mr. Romilly consulted with Mr. Binns for a few minutes, and then proceeded.]

Gentlemen, were I to exercise my own judgment, I should rest my defence here. I think it setting a bad precedent, to examine a single witness on the part of the defendant; but he is not satisfied to obtain a verdict of acquittal on the contradictions of the crown evidence, but desires (I speak it to his honor) to be acquitted solely on the merits of his cause, the justice of his principles, and the purity of his intentions. He desires me to repeat exactly what he has said; I shall therefore call all the witnesses. I shall not do what has been done by the other side:—their object is to obtain a conviction. Gentlemen, the question is not whether Mr. Binns was a delegate from a London Corresponding Society; much less are you to decide what are, or may have been, Mr. Pitt's sentiments respecting a Reform in Parliament; neither are you to find whether Mr. Binns said any thing about establishing societies: those are none of them the questions which you are to determine—though, for the purpose of confounding your judgments, those passages have been introduced: but I am persuaded there is no person among you, can suffer himself to be influenced by any artifices of this nature.

Gentlemen,

Gentlemen, you are to decide on this point—whether there is not something totally different from what has been mentioned—the whole depends on the three last counts—the second is respecting Corsica. I think I need say no more on this head—you have observed, gentlemen, that neither of the witnesses prove the words of the indictment, and both differ from each other. The third count relates to the time when force may be necessary to be used; and the fourth refers to the conduct of the soldiery in a supposable case. Now, gentlemen, unless you can believe that the defendant told the people that it was necessary to use force to obtain a Reform in Parliament, you cannot convict him.

I am instructed to say that Mr. Binns did certainly talk about force; but he did not talk about it as a thing applicable to the obtaining a Parliamentary Reform. Our learned friend would have us divest ourselves of all knowledge, but what is to be found in the indictment. Let us, gentlemen, for a moment examine what was the period at which this discourse was delivered: it was at a time when the doctrine of resistance to oppression had been pretty much discussed, both in Parliament and out of Parliament:—whether it was prudent or not to act as Mr. Binns did, is not the question; it is his intention you are to decide upon—but I must say I do not wish to live to see the time when we may be debarred the right of conversing on public affairs, and discussing the measures of government: and I trust in God I never shall live to see the day, when subjects debated in Parliament may not be spoken of out of Parliament.

Mr. Binns made, as you have been given to understand, a very long speech: he endeavoured to impress on his hearers, in a forcible manner, the necessity of using peaceable means—peaceable and legal means, and no other—as the only ones that were likely to obtain their end. After he had spoken a considerable length of time on the necessity of a reform in Parliament, and of universal Suffrage and annual Parliaments, as the only radical one, he passed to other topics—he talked to them upon those subjects which are, and I hope always will be most interesting to Englishmen—the Trial by Jury, and the Liberty of the Press. It is impossible I should, while defending my client, be led to commit the very crime of which I am engaged to prove him innocent. God forbid! that standing in the situation in which I do, I should interest myself in a bad cause: but though I say this, I should disgrace the profession
of

of which I have the honor to be a member, if through any motives of prudence, or timidity, I should omit to state any circumstances which are material in the defence.

After Mr. Binns had talked a considerable time of the trial by Jury, and the liberty of the Press, he certainly did say, that if a time should come when these, the dearest rights of Englishmen, were taken away, he for one would not scruple to sacrifice his life for the interest of posterity. I am astonished that my learned friend should treat this as a false philosophy. I must say, that I profess it; I will say more, I am sure that my learned friend himself professes it, and if necessity should call upon him, would practically prove that he does profess it. My learned friend must admit, that there have been circumstances, in the history of this country, which have called forth the exercise of this virtue; and if my learned friend had lived in the time of Charles the First, or in the time of James the Second, he himself would have acted under the influence of this principle, which he now calls monstrous, and false philosophy. I am sure he has too much honor, too much patriotism, not to have been found in the foremost rank, opposing that wicked monarch.

Gentlemen, I shall not cite passages out of great authors, such as Locke, the justness of whose political opinions have been sometimes called in question; but I shall beg leave to cite to you the words of one of the learned Judges who presided in our courts, and whose knowledge of our Constitution is universally acknowledged. I shall quote Judge Blackstone.

"From the Revolution to the present time."

"In this period many laws have passed; as the Bill of Rights, the Toleration Act, the Act of Settlement with its conditions, the Act for uniting England with Scotland, and some others; which have asserted our liberties in more clear and emphatical terms; have regulated the succession of the crown by Parliament, as the exigencies of religious and civil freedom required; have confirmed, and exemplified, the Doctrine of Resistance, when the executive magistrate endeavours to subvert the Constitution; have maintained the superiority of the laws above the King; by pronouncing his dispensing power to be illegal; have indulged tender consciences with every religious liberty, consistent with the safety of the State: have established triennial, since turned into septennial, elections of members to serve in Parliament; have excluded certain officers from the House

" of

“ of Commons : have restrained the King’s pardon from obstructing Parliamentary Impeachments : have imparted to all the Lords an equal right of trying their fellow peers ; have regulated trials for high treason ; have afforded our posterity a hope that corruption of blood may one day be abolished and forgotten : have (by the desire of his present Majesty*) set bounds to the civil list, and placed the administration of that revenue in hands that are accountable to Parliament : and have (by the like desire) made the judges completely independent of the King, his ministers, and his successors.”

Gentlemen, I shall trouble you with only one quotation more, which shall be from the same authority.

“ The antiquity and excellence of this trial (speaking of trial by Jury) for the settling of civil property, has before been explained at large. And it will hold much stronger in criminal cases ; since, *in times of difficulty and danger, more is to be apprehended from the violence and partiality of Judges appointed by the Crown, in suits between the King and the Subject, than in disputes between one individual and another*, to settle the metes and boundaries of private property. Our law has therefore wisely placed this two-fold barrier of a presentment, and a trial by Jury, *between the liberties of the people, and the prerogatives of the Crown*†. It was necessary for preserving the admirable balance of our Constitution, to vest the executive power of the laws in the prince : and yet this power might be dangerous and destructive to that very constitution, if exerted without check or controul, by justices of *oyer and terminer* occasionally named by the Crown ; who might then, as in *France* or *Turkey*, imprison, dispatch, or exile any man that was obnoxious to the government, by an instant declaration, that such is their will and pleasure ‡.”

* I beg to remark, that the above was written in the reign of George II. I should not have noticed it, only that I think his present majesty has done enough to make him REMEMBERED FOR AGES, without his being necessitated to borrow any additional LUSTRE at the expence of his ROYAL GRANDFATHER.

† Is it always the case that the liberty of the people, and the prerogatives of the crown, is of such a nature, that each watches only for opportunity to infringe upon the privileges of the other ?

‡ If the Author had lived to revise his works, at this time, he probably would have substituted Ireland for France.

“ So that the liberties of England cannot but subsist so long as this *palladium*, sacred and inviolate not only from all open attacks (which none will be so hardy as to make) but also from all secret machinations, which may sap and undermine it, by introducing new and arbitrary methods of trial by justices of the Peace, commissioners of the revenue, and courts of conscience.

Now, Gentlemen, I shall prove to you by the witnesses I have mentioned (many of whom are housekeepers, and not members of any political club) that though he talked of resistance, it related to the defence of Trial by Jury, and the Liberty of the Press only.

My learned friend will tell you, perhaps, that there was no occasion to talk in this manner—that neither the trial by Jury, or the liberty of the Press, were in danger; and that, therefore, his talking was criminal, as tending to excite undue fears and suspicions in the minds of the people: but, gentlemen, though you be of opinion that neither the one or other of these inestimable privileges were in danger, and though you be of opinion that in talking of them in this manner the defendant was committing a crime, you cannot find him guilty of this indictment: for even supposing all this to be true, it must be the subject of another indictment. The question is not, gentlemen, whether the Trial by Jury, and the Liberty of the Press, was actually endangered, or whether Mr. Binns thought so; but the question for your decision is, whether Mr. Binns recommended force to be employed to obtain a parliamentary reform; and, gentlemen, unless you are of opinion that he did, you cannot convict him;—but if, on the other hand, he was only contending for the right of trial by jury, and the liberty of the press, so far from being criminal, he was acting the part of a good citizen and an honest man; and he is neither a good citizen or an honest man, who, in such a case, would act otherwise.

Gentlemen, both the witnesses for the prosecution have said, that the words they have given in evidence, are disconnected sentences: it is impossible to convict a man on such evidence—the same expressions taken in a different order, may mean quite contrary things—but in this detached and disjointed state, it is impossible to develop their meaning, or to discover whether they have any meaning at all; and therefore, though in all these cases, he might have used the words stated by the witness

witness (which however has not been proved) it is impossible to say what was their original import.

Gentlemen, if this were a case in which you were to decide, after hearing one side only, I think you could find no difficulty; but when you have heard the evidence which I shall call, you will be convinced that the innocence of the defendant is as clearly proved as the nature of the circumstances will possibly admit.

Gentlemen, I do not believe that the witnesses I shall call have taken any notes, I do not think they have—I do not scruple to say, that they are men of honest characters, in every respect worthy your credit; most of them housekeepers—not members of political clubs, or immediately connected with Mr. Binns.

Gentlemen, the defendant, I must say, is acting in the most fair, open, and honorable manner, by giving the prosecutors an opportunity of cross-examining his witnesses; and by submitting the whole of his conduct to the severest scrutiny.

Gentlemen, this is all I will trouble you with: I am certain that in your hands the defendant is perfectly safe.

End of the Defence.

EVIDENCE FOR THE DEFENDANT.

GEORGE FENTON *sworn,*

[Examined by Mr. ROMALLY.]

Q. Where do you live?

A. In Pritchett-street, Birmingham.

Q. What are you?—A. A schoolmaster.

Q. Were you at the meeting at the Swan public house, on the 11th of March?—A. I was.

Q. Were you there before Mr. Binns came down?—Yes.

Q. How near were you to Mr. Binns?—A. Pretty near.

Q. Did you hear all that he said?

A. I did, for I sat upon a little elevated bench.

Q. Tell us what was the first subject of his discourse?

A. Parliamentary reform.

Q. What

Q. What was the first thing done?—A. A paper was read.

Q. What was it?

A. It appeared to me for the purpose of introducing Mr. Binns to the societies in Birmingham.

Q. Are you a member of any society?—A. I am not.

Q. What was done next?

A. He said, that in his opinion, the only radical reform was universal suffrage and annual parliaments.

Q. He stated that to be his own opinion?—A. He did.

Q. What did he say next?

A. He said that he was well convinced that universal suffrage and annual parliaments were most conducive to the happiness of the people.

Q. Did he say that his majesty or his ministers were well convinced of it?

A. No; I am certain his words were, that he was well convinced that universal suffrage and annual parliaments, were most conducive to the happiness of the people.

Q. Do you think that if he had said, his majesty and his ministers, that it could have escaped your recollection?—A. No.

Q. What did he say farther?

A. He thought no person could doubt of the practicability of it, when he recollected that universal suffrage had been granted to Corsica by his present majesty, as one of the conditions by which he was acknowledged King of Corsica.

Q. Did he also say that some of the States of North America enjoyed it?—A. Yes.

Q. And thence argued the practicability of it?—A. He did.

Q. Did he go on to say that his majesty, or his majesty's ministers, withheld that right from his own natural subjects?

A. No; he did not.

Q. After he had finished the subject of universal suffrage and annual parliaments, what did he do next?

A. He made some observations on the two bills which had lately passed the House of Commons.

Q. Did he point out any way to obtain this reform?

A. Yes; by petitioning the King and Parliament.

Q. What did he say concerning the two bills you have mentioned?

A. That those bills did not prevent people from meeting to the number of fifty.

Q. What more?

A. He said, if they met they need not fear the information of

of spies; so long as they had a trial by jury, even under the restrictions of those bills; and that England would never be enslaved so long as it has a trial by jury, and the liberty of the press.

Q. What more?

A. But if, unhappily, there should be a time when the trial by jury, and the liberty of the press, should be taken away from the people, though it would be shocking to humanity to shed the blood of our fellow creatures; yet, under such circumstances, he hoped there was not a citizen in that room who would not be willing to shed the last drop of his blood, either in the field or on the scaffold.

Q. That expression was used on the supposition of the liberty of the press, and the trial by jury, being taken away?

A. It was.

Q. Was it used upon the supposition of a refusal of a Parliamentary Reform?

A. No; Mr. Binns never said that force was justifiable to obtain a Reform in Parliament.

Q. During the whole of his speech did he recommend peaceable measures?

A. He said we could never hope to obtain a reform by any other means.

Q. You are not a member of any society?—A. No.

Q. Were you a friend of Mr. Binns?

A. I never saw him before.

Q. Were you ever at any meeting, either before or since?

A. Neither before nor since.

GEORGE FENTON,

[Cross-examined by Mr. PERCIVAL.]

Q. Have you been in the habit of attending public meetings?—A. No.

Q. A question has been put to another witness, and I shall put it to you—Do you recollect as much of any sermon you have ever heard, as you do of this speech?

A. No, I cannot say I do; because after some time, when I saw in the papers that Mr. Binns was apprehended, and I understood I should be subpoenaed upon this business, I thought it my duty to keep it in memory as well as I could.

Q. After what length of time did you expect to be called as a witness?

A. Not

A. Not for some months; not till Mr. Binns had obtained a copy of his indictment.

Q. Had you a copy?

A. Yes; Mr. Binns called and delivered it.

Q. Had you told any body of any thing that was done or said at the meeting?—A. Yes; I might have told several.

Q. Did you make any memorandums?—A. I did that night.

A. Why did you make them?—A. To refresh my memory.

Q. It was not upon Mr. Binns's being committed that your memory was refreshed?—A. It was on both occasions.

Q. You made memorandums the first night?—A. Yes.

Q. Have you got them about you?—A. No.

Q. Why did you not bring them?

A. I did not think it would be necessary.

Q. Were they notes of what you did hear, or what you did not hear?—A. Of what I did hear.

Q. You did not note that the words "his majesty and his ministers were well convinced," and so forth?

A. I did not hear them.

Q. You do recollect that he said he was well convinced?

A. Yes; I do.

Q. Were the words *most conducive*, or *not inconsistent*?

A. Most conducive.

Q. Do you recollect these words: "It would be shocking to humanity to shed the blood of our fellow creatures."

A. Yes; I do.

Q. Were the words used, "to shed," or "to think of shedding."

A. The words, I think, were, "shocking to humanity to shed the blood of our fellow creatures."

Q. Had you told Mr. Binns what you knew before he brought the indictment?—A. No.

Q. He gave you the indictment?

A. He left it at my house.

Q. Did he read it over to you?—A. No; he did not.

Q. Did he make a long stay at your house?

A. He did not wait at all.

Q. Did you read over the indictment attentively?

A. Yes; many times.

Q. Had he not the curiosity to ask you any questions as to the words?—A. No; he had not.

Q. Pray what was it that he said to you.

A. He said he had brought me a copy of the indictment, as it

it was his intention to subpoena me; and requested I would recollect as much as possible of the discourse which he had delivered on the 11th of March.

Q. Did he say any thing at the meeting respecting the soldiery?

A. He said he did not recollect a single instance, either in ancient or modern history, wherein the native soldiers of a country had been made to fire on their countrymen, when defending their common rights; he then instanced the conduct of the national guards of France.

Q. You are sure he did not say the French soldiery?

A. He said, if the soldiers were called upon to act against the people, when defending their rights, they would not dare to push the bayonet or draw the trigger against the preservers of their freedom.

Q. Do you recollect any thing about not thinking much of your own lives, for you are engaged in the cause of posterity?

A. I cannot tell the particulars; there may have been something of that kind.

Q. But you will not swear that these words were not spoken?—A. I do not recollect them.

Q. Or of blood following the axe?—A. No.

Q. You say he read some letters and papers?—A. He did.

Q. Can you give us any of the instructions?

A. The instructions were only rules laid down for his conduct, and for the regulation of the societies; but as I had no intention of going into the society, I did not pay much attention to them.

Q. How long were they being read.—A. I cannot say.

Q. Cannot you recollect any passage from the instructions?

A. I cannot.

Q. Should you recollect any passage were it read to you?

A. Possibly I might.

Q. Can you recollect this? (reads)—“ This part of your mission effected, you are to strain every power of your mind to awaken the sleeping spirit of Liberty; you are to call upon our fellow citizens to be ready, with us, to pursue our common object, if it must be to the scaffold, or rather (if our enemies are desperate enough to bar up every avenue to enquiry and discussion) to the field at the hazard of extermination; convinced that no temper less decided than this will suffice to regain liberty from a bold usurping faction.”

A. I

A. I do not recollect that.

Q. Will you swear these were not part of the words read?

A. No.

Q. You mean to say that these may have been read, though you cannot recollect them?—A. Possibly.

Q. Did you make acquaintance with Mr. Binns at this meeting?—A. No.

Q. When did you see him the first time afterwards?

A. I cannot tell.

Q. Recollect?—A. I cannot tell; I kept no account.

Q. Was it some weeks, or months, before you saw him again?—A. Cannot take upon me to say.

Q. How many times had you seen him before he brought you the indictment?

A. I had seen him several times in public, but not to speak to him.

Q. When he did call tell us what passed?

A. He said, he had heard that I was at the meeting, and therefore when he obtained a copy of the indictment he would furnish me with it. He gave me notice that he should subpoena me.

Q. Did he enquire into the state of your recollection?

Q. Not at all: when he first called it was on Sunday, and I was going to church.

Q. Was that the cause why he did not stay?

A. Perhaps it was.

MR. ROMILLY.

Q. You told him you had been at the meeting?—A. I did.

Q. He did not ask you what you recollected?—A. No.

Q. You say he came to you with a copy of the indictment—but did not ask you any questions?

A. That is what I mean.

Q. Did it serve to refresh your memory?

A. Yes, it did—I was convinced immediately on seeing it, that the words contained in it, were not spoken by Mr. Binns.

Q. With respect to the instructions, you say you do not recollect much, because having no intention of becoming a member of a society, you paid but little attention?

A. Exactly so.

EDWARD

EDWARD PORTER *sworn,*

[Examined by Mr. ROMILLY.]

Q. Where do you live?—A. In Birmingham.

Q. What are you?—A. A Button-maker.

Q. Are you an housekeeper?—A. Yes.

Q. In what street do you live?—A. In St. Paul's Square.

Q. Were you at the meeting at the Swan public house, in Swallow-street, on the 11th of March?—A. I was.

Q. Did you see the defendant there?—A. I did.

Q. Was he in the room when you went?

A. No; he came in soon after.

Q. Did you hear him speak?—A. Yes.

Q. What did he say?

A. After reading some papers to which I paid but little attention, he began to speak.

Q. How happened it you paid but little attention to what he read?—A. Because I was then engaged in conversation.

Q. Are you a member of any political society?—A. No.

Q. What did he speak of when he began?

A. Of Universal Suffrage and annual Parliaments, as the only radical reform.

Q. Did he say any thing about the means by which it was to be obtained?—A. Yes; he spoke of petitioning.

Q. Did he say any thing of any other means?

A. No; he did not.

Q. Did you hear the whole of his speech?—A. I did.

Q. Did he say any thing of obtaining a reform by force?

A. I aver that he said no such thing—I am confident of it.

Q. Whence arises your confidence?

A. I paid particular attention. I heard him introduce something about force, but not as applying to a parliamentary reform.

Q. What was it that he said about force?

A. What he said about force was applied to Trial by Jury and the Liberty of the Press.

Q. Did he speak of military force?

A. Yes; but he referred us to an anticipated period, when the palladium of our rights, the liberty of the press, might be wrested from us.

Q. Did you hear him say any thing about sacrificing our lives for posterity.

A. I do not recollect any such expression.

Q. Do you remember any thing about blood following from the axe?—A. Nothing like it.

Q. Let me ask you whether, according to the best of your recollection, what was said about force referred to a time when we might be deprived of the liberty of the press.

A. It did; force was not spoken of as applicable to the subject of a reform.

Q. Did you hear him say any thing about Corsica?—A. Yes.

Q. State to the court, as nearly as you can, what he said; and use if possible, his exact words?

A. He said he had read much on the subject of annual parliaments and universal suffrage, and had never heard of any doubt as to their utility, but only as to their practicability; now, he said, those doubts were removed, for the prince of these realms had granted those privileges to the people of Corsica, as one of the conditions of his being acknowledged sovereign of that country.

Mr. Justice Ashurst. Had granted what privileges?

A. Universal suffrage, and annual parliaments, my Lord.

Mr. Romilly. Did you hear him say any thing of America?

A. He said that the northern states enjoyed that mode of representation.

Q. When the defendant said that his majesty had granted these privileges to the people of Corsica, did he add these words—"though he denied them to his natural subjects."

A. He did not.

Q. If he had made use of such an expression, do you think it would have escaped you?

A. I think it must have struck me.

Q. Did you know Mr. Binns?

A. No; I had seen him but once.

Q. Where did you first see him?

A. At my manufactory in St. Paul's Square. He was introduced by a friend to see the manufactory.

Q. How long was this before the meeting?

A. I think it was something more than a year.

Q. Did you then form an acquaintance with him?

A. No; I did not know him again at the meeting.

Q. When did you first see him afterwards?

A. I cannot exactly say—I think it was six months afterwards.

Q. Did

Q. Did you ever see a copy of his indictment?

A. Yes; at the last assizes.

Q. Did you examine it?

A. When I first saw it I paid no attention to it, because I wished to get myself excused.

Q. When you first examined it, did you think that the words, respecting the time when force was necessary to be used, were spoken by Mr. Binns as applying to the refusal of a parliamentary reform, or to a deprivation of the trial by jury, and the liberty of the press?

A. At the first moment I looked at it, I was confident the words had no application to a reform.

Q. Was it a printed copy?—A. Yes.

EDWARD PORTER,

[Cross-examined by Mr. COKE.]

Q. You say you was there before Mr. Binns?—A. I was.

Q. Did you take any notes of the proceedings?—A. I did not.

Q. You told us of some papers that were read; do you know the contents of those papers?

A. He read a printed paper, containing instructions from the London Corresponding Society.

Q. How do you know what it was, since you paid no attention?—A. I am positive from the title.

Q. Pray how long did the reading of these papers take up?

A. Not long; about ten minutes, or not quite so much.

Q. You say you remember very little of the contents of the papers which were read; how comes it, Mr. Porter, you are so correct as to the words spoken?

A. Mr. Binns furnished me with a copy of his indictment, and as some of the words spoken were the same as those charged, though delivered in a different connexion, the reading of the indictment replenished my memory.

Q. Did you hear him say any thing about Cornwall, or about the number of electors?

A. I believe he did, but cannot charge my memory with the particulars.

Q. Was any thing said about Scotland?—A. No.

Q. Are you certain nothing was said about Scotland?

A. I recollect nothing.

Q. Or of the majority of the House of Commons being returned by five hundred persons?—A. No.

Q. Will you swear that such words were not spoken by the defendant?—A. No; I will not.

Q. You have sworn nothing was said about force in case of a refusal of a reform: pray what *did* he say about force.—Repeat his words as exactly as you can?

A. He said, if a time should come when any minister should be daring enough to wrest from us the right of trial by jury, and the liberty of the press, he hoped there was not a citizen in the room but would shed his last drop of blood in defence of these rights.

Q. Was this spoken before, or after he had been talking of a reform in parliament?

A. It was some time afterwards.

Q. Did he not say something about the soldiery?

A. Yes he referred us to the conduct of the national guards of France, when they were ordered to fire upon the people.

Q. Did you hear him say his majesty and his ministers were well convinced that universal suffrage and annual parliaments were most conducive to the happiness of the people, and had granted them to the Corsicans, but refused them to his natural subjects?—A. No; I did not.

Q. Will you swear that he did not utter these expressions?

A. I will.

Q. Then you heard nothing of Cornwall, or of the state of the representation?—A. Not that I remember.

Q. Nor of Scotland?—A. Nothing that I recollect.

Q. Will you swear that nothing was said by the defendant about Cornwall or Scotland?

A. No; I cannot swear that.

Q. It is possible he might have talked of the representation of Scotland, or Cornwall, without making much impression upon you?—A. Yes; he might.

Q. It is likewise possible he might have asserted, that his majesty and his ministers were well convinced of the necessity of a reform; yet this might have escaped your hearing?

A. No; it is impossible.

Q. Why is it impossible?

A. Because the one is a familiar subject, to which I should not have paid much attention; but the other must have struck me forcibly.

Q. Oh! You are very familiar with the state of the representation: pray how many members does Cornwall send?

A. Cannot say, exactly. [*The witness smiled.*]

Q. You

Q. You are not to laugh, sir ; be so good as stand upright ; and a step higher.

A. I will stand as high as you please ; I will stand upon here, if you please. [*Pointing to the top of the partition behind which he stood.*]

Q. You are a politician, it seems, Mr. Porter ; and I suppose talk sometimes of his majesty and his ministers ?

A. Yes, frequently ; especially of late.

Q. Every day of your life ?

A. Cannot say every day ; I do most days.

Q. Did the defendant name his majesty and his ministers together in the course of his speech ?

A. Not to the best of my recollection.

Q. Will you swear he did not.

A. No ; I made no notes ; I understood the meeting was called for the purpose of persuading the people to associate, as the means of obtaining a parliamentary reform.

Q. Did you understand the meeting was called by the defendant, with a view to persuade people to petition for a reform ?

A. No.

Q. Was any petition introduced ?—A. No.

Q. Then that meeting was not for the purpose of petitioning ?

A. I cannot say.

Q. Have you seen Mr. Binns of late ?—A. Many times.

Q. Did you not see him last night ?

A. No.—Yes ; I beg your pardon. I was in his company about ten minutes at Dr. Blunt's, where he called upon a gentleman, a friend of his.

Q. You had no acquaintance with Mr. Binns before the meeting ?—A. No.

Q. But you know him very well now.—A. I have that pleasure.

Mr. ROMILLY.

Mr. Porter you think it very likely that the defendant might have talked about the representation of Cornwall, or Scotland, without fixing your attention, because on this subject he could say nothing new or remarkable.—A. He might.

Q. But not of his majesty or his ministers, as mentioned in the indictment ?

A. No ; it must have struck me forcibly.

HENRY

HENRY DIXON *sworn,*

[Examined by Mr. READER *.]

Q. Where do you live?—A. In Birmingham.

Q. What are you?—A. An anvil-maker.

Q. Were you present at the meeting, at the Swan public house, on the 11th of March?—A. I was.

Q. Did you see Mr. Binns?

A. I did—I was there before he came.

Q. Was you so near Mr. Binns as to be able to hear all he said?—A. I was.

Q. Did you listen with attention?—A. I did.

Q. Do you recollect how his discourse began?

A. Cannot pretend to say what he said first.

Q. Did he read any instructions from the London Corresponding Society?—A. I think he did.

Q. Do you remember his saying any thing about a parliamentary reform?—A. I do.

Q. Did you hear him say any thing of the means by which it was to be obtained?—A. I did.

Q. What were they?

A. By petitioning the King and Parliament.

Q. Was that the only means he recommended?

A. Yes; peaceably petitioning.

Q. Do you recollect his saying any thing of his majesty and his ministers?

A. Yes; he said something about them—but I do not exactly recollect the words.

Q. Did he say, they were well convinced that universal suffrage and annual parliaments, were most conducive to the happiness of the people?—A. No; I do not recollect that.

Mr. Justice Ashburst. What did he say?

A. He was saying that his majesty had granted universal suffrage to the Corsicans, that he might be king of Corsica.

Q. In the course of that speech did he say, that the king had withheld this right from his natural subjects?

A. Not that I heard.

Q. Could this have passed without your hearing it?

A. I think I must have heard it if it had passed.

* This was the Mr. Dixon whom the witness Guest deposed he saw at the meeting.

Q. If such expression had been used, do you think you should have noticed it?—A. I think I should.

Q. I wish to know, Mr. Dixon, whether Mr. Binns, in any part of his speech, recommended any other than peaceable measures?

A. No; if he had, I should have been very much displeased, and have left the room directly.

Q. Did you hear him say any thing of the Liberty of the Press, or the Trial by Jury?

A. Yes; he did say something about them.

Mr. Justice Ashbursh. What was it he said about them—say as nearly as you can?

A. He was saying he thought the people had a right to the liberty of the press and the trial by jury.

Mr. Reader. Did he say any thing of the soldiers?—A. Yes.

Q. Was it said after, or before he was speaking of the liberty of the press?—A. Afterwards.

Q. Did he say any thing about effecting a reform by force?

A. No.

Q. If he had, must it not have struck you?

A. Yes; it must.

Q. Did you know Mr. Binns before?

A. I had seen him but once.

Q. Where did your first see him?

A. At the Poet Freeth's, in Birmingham.

HENRY DIXON,

(Cross-examined by Mr. BALGUY.)

Q. How came you, Mr. Dixon, to go to this meeting?

A. I went out of curiosity.

Q. What excited your curiosity?

A. I heard there was to be speaking by one of the delegates from London.

Q. Had you heard that Mr. Binns was to speak?

A. I did not know whether it was to be Mr. Binns, or Mr. Jones.

Q. But you went for the purpose of hearing what was said?—A. I did.

Q. Of course you took some observation?—A. Yes.

Q. What prevented you, when you got there, from hearing all that was said?—A. I dare say I did hear all that was said.

Q. Tell me, sir, did not Mr. Binns begin by reading some instructions?—A. I think he did.

Q. What

Q. What! are you doubtful?

A. I cannot be certain; I believe he did.

Q. Was there much time employed in reading them?

A. Some few minutes.

Q. Were they read aloud?—*A.* Yes, they were.

Q. Pray did you hear this passage? (reads)—“You are to strain every power of your mind to awaken the sleeping spirit of liberty.”

A. I do not recollect.

Q. Was this read?—“You are to call upon our fellow citizens, to be ready with us to pursue our common object.”

A. I do not recollect it.

Q. Did you hear this expression?—“If it must be to the scaffold, or rather (if our enemies are desperate enough to bar up every avenue to enquiry and discussion) to the field, at the hazard of extermination, convinced that no temper less decided than this, will suffice to *regain* liberty, from a bold usurping faction.”—Do you recollect any thing like this?

A. No.

Q. Pray, Mr. Dixon, do you remember to have heard this—“But to the end that we may succeed, by the irresistible voice of the people, you are to excite every society with the desire that animates our bosoms, to embrace the nation as brothers.”

A. I do not remember it; please to read it over again.

[Reads—“But to the,” &c. &c.]

A. I do not remember.

Q. Please to inform my Lord what you do remember?

[Interrupted by Mr. Romilly—Why he tells you he knows nothing about it.]

Mr. Balguy. I beg I may not be interrupted.

Mr. Romilly. He can answer only according to his recollection.

Mr. Balguy. Give an account of any part of those instructions you did hear?

A. I cannot recollect any thing about them.

Q. Your memory is quite a blank as to the instructions; when did it take place?

A. When he began to talk about Corsica.

Q. Oh! then you began to awake from your sleep?

A. I was not asleep.

Q. Will you say that Mr. Binns did not say that his majesty and his ministers were well convinced that universal suffrage and annual parliaments were for the benefit of the people?

A. I

A: I do not know; I do not think he did.

Q. Give me your answer?—A. I do not recollect it.

Q. What did he say then about universal suffrage?

A. He thought it might be done, as the king had granted it to the Corsicans.

Mr. Justice Ashurst. You heard him say that it was practicable; that it might be done?—A. Yes, my lord.

Q. Do you recollect any thing about the axe, or the scaffold? Come, brush up your memory.

A. I do not recollect it.

Q. Or about the blood streaming, or about a tree?—A. No.

Q. Do you mean to swear that he said nothing about an axe, a scaffold, of blood, or of a tree?

A. I do not recollect it.

Q. Do you mean that the jury should understand you to swear, that he did not make use of those expressions?

A. I do not recollect them.

Q. Did he say any thing of Cornwall, or Scotland?

A. Not that I heard.

Q. Or that the majority of the House of Commons was returned by five hundred persons?

A. He mentioned the number of the House of Commons.

Q. And that was all he said about it?

A. All that I remember.

Q. And so Mr. Binns came to tell you how many persons the House of Commons consisted of, which any body may find in the Court Calendar*. Pray did he talk of the soldiery?

A. Yes.

Q. Was it before or after he had been talking of a reform in parliament?—A. Some time afterwards.

Q. And what did he say between?—A. I cannot recollect.

Q. I should be glad if you would tell us what he said about the soldiers?

A. He said he thought the soldiers would not fire upon the people, after peaceably petitioning.

Q. And what else?

A. When they were contending for trial by jury, and the liberty of the press.

Mr. Justice Ashurst. Have you finished the sentence? [His lordship here read over the last words of the witness

* Where may be also found, a list of Placemen and Pensioners; which will be found the more numerous company of the two. By this double enquiry, we shall learn who impose taxes, and how some part of them are appropriated.

several times, as thinking they did not make perfect sense.

Mr. Romilly endeavoured to explain to his lordship.]

Mr. Justice Ashurst. Was that all you meant to say?

A. Yes, my lord.

Mr. Balguy. You say it was intended to petition; what was to be the subject?

A. To petition his majesty that there might be universal suffrage and annual parliaments.

Q. So that after petitioning peaceably, he said the soldiers would not fire upon the people?—A. Yes.

Q. Do you recollect any thing about the national guards of France?

A. There was something said about them, but I do not recollect exactly what. I think he said the soldiers, like the national guards of France, would not fire upon the people after peaceably petitioning.

Q. Having recollected so little, might not something have been said which you do not recollect?—A. Certainly.

Q. Were you one that was served with a copy of the indictment?—A. I had a copy.

Q. When?

A. I think it was a little before the last assizes.

Q. Who delivered it?—A. Mr. Binns.

Q. Did you know before that time that you was to be called as a witness?—A. No.

Q. Had you ever told Mr. Binns what you knew of this business, before he brought you the indictment?—A. No.

Q. Did you examine it immediately?

A. I looked it over while Mr. Binns was present.

Q. Did you tell him what you could recollect?

A. I told him I had not thought much about it.

Q. Has any paper been delivered to you since that time about this business?—A. No.

Q. What do you mean to swear that you have had no paper?—A. Yes; I am sure I have had no paper.

Q. Has any body told you, in discourse since, what you were to say?—Mr. Binns, or any body?—A. No.

Q. Do you swear it?

A. I have sworn it.—I am upon my oath.

Q. Have you yourself told nobody?—A. No.

Q. Has any body ever examined you?

A. Yes; Mr. Tomes * examined me once.

* Mr. Edward Tomes, who acted as agent for Messrs. Smart and Rolfe, London.

Q. Had

Q. Had you been subpoenaed when Mr. Tomes examined you?—A. Yes.

Q. On your oath, had you or had you not, before Mr. Tomes examined you, told any body else what you knew of this business?—A. I never told any body.

Q. How then came you to be subpoenaed?

A. Mr. Binns said he heard I was there, and therefore he thought proper to subpoena me.

Mr. READER.

So that you come here to say what you recollect, without having ever said a word about what you remember to any body, except once to Mr. Tomes?—A. Yes.

Q. Do you mean to say that Mr. Binns made use of the word force, in the progress of his discourse?

A. Yes; he did say something of force.

Q. What was it that he said with respect to force?—Was it before or after he talked about the liberty of the press and the trial by jury?—[*Here the witness paused, as though recollecting.*]—Endeavour to recollect yourself, and tell me whether force applied to the liberty of the press, and the trial by jury?—A. I think it did.

Q. And not to a parliamentary reform?—A. No.

JAMES PHILIPS LUCAS sworn,

[Examined by Mr. ROMILLY.]

Q. What are you, Mr. Lucas?—A. An auctioneer's clerk.

Q. Where do you live?—A. In Birmingham.

Q. Are you a member of any political society?

A. No; I never was.

Q. Were you at the meeting at the Swan public house, on the 11th of March?—A. I was.

Q. Do you remember Mr. Binns making a speech there?

A. Yes.

Q. What part did you hear of it?—A. I heard the whole.

Q. What was the beginning of it?

A. I cannot charge my memory.

Q. Were any papers read?—A. Yes.

Q. Was the speech concerning a reform in parliament?

A. Yes.

Q. What did he say?

A. He said a parliamentary reform was necessary.

Q. Did he say any thing of the means by which men should seek to obtain it?

A. Yes; by petitioning the House of Commons.

Q. Did he speak of any other means?

A. No; he said those were the only means.

Q. Did he say any thing relative to Corsica?

A. Yes; he said that the granting of universal suffrage was the means by which his majesty was acknowledged king of Corsica.

Q. Did he say any thing more on this subject?

A. Not that I remember.

Q. Did he say that the king and his ministers had refused that right to his natural subjects?—A. No.

Q. Were you attentive to his speech?

A. Not particularly so; yet I should have remembered this if he had said it.

Q. Did he say any thing respecting force, or about a time when force might be necessary to be used.

A. I do not remember.

Q. Did he say any thing relative to the soldiers?

A. He was pointing out the difference between foreign soldiers, and the soldiers of the country; the one, he said, had the interests of the country more at heart than the other.

Q. Did he say any thing more on this subject?

A. I do not remember any thing more.

Q. Any thing about soldiers acting against the people?

A. Not acting against the people, but with them.

Q. For what purpose?

A. To defend the right of trial by jury, and the liberty of the press.

Q. Did what he said about force apply to a reform in parliament; or to the liberty of the press, and the trial by jury?

A. A reform in parliament was not mentioned at that time.

Q. At what time was it that a reform had been mentioned?

A. One was at the beginning of his speech, the other at the end.

Q. Did he, in the course of his speech, recommend to the people to conduct themselves peaceably, and obey the laws?

A. He did, repeatedly.

Q. Had you any acquaintance with Mr. Binns?

A. I never saw him before.

Q. When did you next see him?

A. Some time afterwards, when he put a copy of the indictment into my hands.

JAMES PHILIPS LUCAS,

[Cross-examined by Mr. CLARK.]

Q. Pray what sort of a meeting did you expect it would be?
[Mr. Romilly objected to this question; the witness however answered it.]

A. A political lecture.

Q. That was the first time you saw Mr. Binns?—A. Yes.

Q. How many persons were there in the room?

A. I cannot tell; I did not count them.

Q. Say as nearly as you can guess?

A. There might be forty or fifty.

Q. Was the room as full as it could hold.

A. I don't know what you mean; it was pretty full.

Q. Could you have stuck a pin between?—A. Certainly.

Q. Then the room was not as full as it would hold.—A. No.

Q. Would it have held sixty?—A. I do not know.

Q. May I ask you, Did you hear all the doctrines?

A. I was there all the time.

Q. Did the lecture meet with your approbation?

[Here Mr. Romilly again objected to the question, as improper; but Mr. Clark pressing it, the witness answered.]

A. It did not meet with my disapprobation.

Q. Was not reading some instructions the first thing done?

A. Yes.

Q. What was the purport of them?

A. His instructions were to persuade the people that a reform in parliament was necessary.

Q. Did you pay any attention to the instructions?

A. Not particularly.

Q. Do you recollect any part of them?—A. I do not.

Q. I shall read some passages to you. Do you recollect this? (reads)—“You are always to reflect that you are wrestling with the enemies of the human race.”

A. I do not recollect this.

“Not for yourselves, merely; for you may not see the full day of liberty; but for the child hanging on the breast; and that the question, whether the next generation shall be free or not, may greatly depend on the wisdom and integrity of your conduct in the generous mission which you and your fellow deputies now take upon yourselves.”

Q. Do

Q. Do you recollect nothing of all this?

A. No; I don't recollect a word about a child.

(Reads)—“ You are to strain every power of your mind to awaken the sleeping spirit of Liberty; you are to call upon our fellow citizens to be ready with us, to pursue our common object, if it must be to the scaffold!”

Q. Do you remember these words?

A. No; none of them.

Q. Then you recollect nothing but that he was sent to enforce the necessity of parliamentary reform.—By what means did you say this reform was to be obtained?

A. They were to petition the House of Commons.

Q. Did he say what was to be done, in case that means failed?—A. No.

Q. Do you mean to swear that you recollect every thing that passed?

A. Not every action, nor every word.

Q. How long was he speaking?—A. About an hour.

Q. You do not recollect all the words?

A. Something might have been said which I do not now recollect.

Q. Did he say any thing of the king, or his ministers?

A. No.

Q. Will you swear that, in the course of his speech, he said nothing of the king or his ministers?

A. No; I do not swear that. But I swear he did not say what is stated in the indictment concerning them.

Q. You say he was stating the difference between soldiers of the country, and foreign soldiers; what was it that gave rise to it?

A. I cannot recollect; I do not pretend to give every particular.

Q. You have told us that the soldiers would act in defence of the liberty of the press, and the trial by jury; now what gave rise to this?

A. What gave rise to it was, his saying the liberty of the press and the trial by jury might be some time or other in danger, and he said a parliamentary reform would secure them.

Q. Did he say they were in danger?

A. No; he said they might be in danger. He said the soldiers would assist the people if they were in danger.

Q. How long have you known what to say?

A. Not

A. Not till this moment.

Q. Who gave you a copy of the indictment?

A. Mr. Binns.

Q. Then you did not know what you came here for?

A. I knew very well what I came here for; but did not know what I must say. I could not tell what questions might be put to me.

Q. Did you not say yesterday, that you knew little or nothing about the matter?

A. I might say I could be of little use to Mr. Binns.

Q. Why then were you afraid that your evidence would be of little use to Mr. Binns?

A. Because my recollection is not strong.

Q. Do you mean to say that your recollection is not to be relied on?—A. No.

Q. What then?

A. It is to be depended upon as far as it goes.

Q. How often have you read the indictment?

A. A few times.

Q. When did you tell Mr. Binns what you could say?

A. I never told him.

Q. Who took your examination.—A. Mr. Tomes.

Q. And that was the first time?—A. Yes.

Mr. ROMILLY.

Q. Had you before that said, you had been at the meeting?

A. Mr. Binns had heard that I was there.

Q. What did you mean by your recollection not being strong?

A. I mean that I cannot recollect the particular words.

Q. Can you tell what was the title of the instructions?

A. No.

Q. Was it—"Instructions to citizen John Gale Jones?"

A. No; I think it was to both.

Q. Mr. Lucas—on your oath, and as you wish to be considered as an honest man, do you think that what was said about force, applied to parliamentary reform, or the liberty of the press and trial by jury?—A. To the latter.

JOHN FAWKNER *sworn*,

[Examined by Mr. READER.]

Q. Where do you live?—A. In Birmingham.

Q. What

Q. What are you?—A. Agent to the Liverpool Waggon.

Mr. COKE.

Q. Have you not been in court during part of the trial?

A. No; I have been in the garden with the other witnesses;
[The witnesses on both sides were ordered out of court, as soon as the jury were sworn.]

Mr. READER.

Q. Are you a member of any political society?—A. No.

Q. Were you at the meeting, at the Swan public house?

A. I was.

Q. Were you there at the beginning of Mr. Binns's speech?

A. Yes; I was there before he came in.

Q. Did you hear the whole of his speech?

A. Yes; I was near Mr. Binns all the time, and listened with considerable attention?

Q. What did he begin with?

A. He began by reading the instructions, and commenting upon them.

Q. Did you hear him say any thing about annual parliaments, and universal suffrage?—A. Yes.

Q. What did he say of them?

A. He spoke of them as the only radical reform.

Q. By what means was this reform to be obtained?

A. By legal and peaceable means; by petitioning the House of Commons.

Q. Did he talk of using force?—A. No.

Q. If he had, could it have escaped your notice?

A. I think it must have materially struck me.

Q. Did he speak of its being practicable?

A. Yes; he pointed out that it was practicable; and answered some objections to it.

Q. What were the objections?

A. There were several; but I do not remember them.

Q. Did he say any thing about Corsica?

A. Yes; he mentioned something of his majesty and his ministers having granted it to Corsica; and therefore he did not see any reason why it might not be granted to this country.

Q. Did he say that his majesty and his ministers saw no reason why it might not be granted to the people of this country?

A. No; he said that *he* (Mr. Binns) saw no reason, &c.

Q. But,

Q. But, did he say that his majesty had granted it to Corfica, and yet withheld it from his natural subjects?

A. No; he said no such thing.

Q. If he had, could it have escaped your notice?

A. No; it could not.

Q. In discussing the subject of parliamentary reform, did he say any thing of the treason and sedition bills?

A. Nothing, that I recollect.

Q. Do you recollect any thing concerning the trial by jury, and the liberty of the press?—A. Yes.

Q. What?

A. He said, if any minister should be daring enough to take away the trial by jury, and the freedom of the press, and afterwards bring the soldiers upon the people, to force them to submission, to things opposite to the constitution, he hoped there was not a person in the room, but would shed the last drop of his blood in defence of his rights?

Q. So that what he said about force, applied to a time when we might be deprived of the liberty of the press and the trial by jury?—A. It did.

Q. Do you mean to speak accurately as to the words, or the subject only?—A. The subject only.

Q. In treating the subject of parliamentary reform, did he talk of any other means than petitioning?—A. No.

Q. Did you know Mr. Binns?

A. No; never saw him before.

Q. Had you a copy of the indictment?—A. Yes.

Q. Are you sure that what was said respecting force applied to the liberty of the press and trial by jury?—A. I am sure.

JOHN FAWKENER,

[Cross-examined by Mr. PERCIVAL.]

Q. Are you a member of any political club?—A. No.

Q. Have you been in the habit of attending public meetings of any kind?—A. No.

Q. Did you take any notes of the proceedings of this meeting, or of what you heard?—A. No.

Q. Did you ever tell Mr. Binns what you knew?

A. Never.

Q. When did you first know that your assistance would be wanted here?—A. About three weeks ago.

H

Q. You

Q. You were not here at the last assizes?

A. I was; but not as an evidence.

Q. Did you hear Mr. Jones's trial?

A. I was present in the court about half an hour.

Q. When did you receive a copy of the indictment?

A. About three weeks ago.

Q. Did you ever repeat to any body what you knew.

A. Never; but I retained it in my mind.

Q. Who gave you the copy of the indictment?

A. Mr. Belcher.

Q. In what case do you say Mr. Binns talked of using force?

A. In case of an attempt to establish despotism, and to take away the liberty of the press and trial by jury.

Q. Did he say any thing of the representation of Cornwall, or Scotland?—A. I do not recollect that he did.

Q. Or about people going to the scaffold, or to the field, or about blood flowing?

A. He said something about blood streaming from the scaffold.

Q. What were his words; endeavour to recollect?

A. I cannot recollect the expressions, but suppose it was to be in defence of their rights and liberties.

Q. You say he began by reading some instructions; now can you recollect any passages from those instructions?

A. I cannot.

Q. Do you think you might recollect any, were they read to you?—A. Possibly I might.

(Reads)—“ You are always to reflect that you are wrestling with the enemies of the human race !”

Q. Do you recollect this?—A. I think I do.

(Reads)—“ It behoves you, notwithstanding, to convince the timid, that no fears are to be entertained respecting the legal consequences of the information of spies, since the security of the friends of reform is in the legality of their object and proceedings.”

A. I do recollect this.

(Reads)—“ The design of the above articles is to remove misapprehensions relative to the safety of our association, under the new laws. This part of your mission effected, you are to strain every power of your mind, to awaken the sleeping spirit of liberty.”

A. I think I do remember that.

(Reads)—“ You are to call upon our fellow citizens to be ready

ready with us to pursue our common object, if it must be to the scaffold."

A. I rather think this was.

Q. "Or to the field, at the hazard of extermination."

A. I think I do recollect this.

MR. READER.

Q. Did you consider the instructions as addressed to Mr. Binns?—A. Yes.

Q. You recollect his saying something about blood; was it after, or before he mentioned the soldiery?

A. It was after.

Q. Has any body ever examined you?—A. Nobody.

Q. Not even Mr. Tomes?—A. No.

THOMAS CLARK *sworn*,

[Examined by Mr. ROMILLY.]

Q. What are you?—A. A schoolmaster.

Q. Where do you live?—A. In Newhall-street.

Q. Are you an housekeeper.—A. Yes.

Q. Did you live there in March last?—A. I did.

Q. Were you present at the meeting at the Swan public house?—A. I was.

Q. Did you see Mr. Binns there?—A. I did.

Q. Were you present all the time?

A. Yes; I was there before him, and went when he did.

Q. Then you heard the whole of his speech?—A. I did.

Q. Had you ever seen him before?—A. Never.

Q. What was the subject of his discourse?

A. A parliamentary reform.

Q. By what means was this to be obtained?

A. By peaceable and legal means; by petitioning the House of Commons.

Q. Did he speak of any other means?—A. No.

Q. Did he recommend peaceable conduct?

A. Very forcibly.

Q. Did he recommend using force?—A. By no means.

Q. Do you mean to swear that he did not?

A. I do; I was very attentive.

Q. Did he say any thing about Corfe?

A. Talking

A. Talking of the practicability of what he was recommending, namely, annual parliaments and universal suffrage, he said that his majesty had granted them to the people of Corsica; he also said that some of the States of America had practised that mode of representation.

Q. What else?—*A.* Nothing relative to Corsica.

Q. Did he say, that his majesty and his ministers were well convinced that universal suffrage, and annual parliaments, were most conducive to the happiness of the people.

A. No; he said that *he* himself was convinced.

Q. Do you think you should have heard him if he had said it?—*A.* I certainly should.

Q. Did he say any thing of his natural subjects?

A. Nothing that I remember.

Q. Or any thing of the soldiers not acting against the people?—*A.* He did.

Q. What was it?

A. It was after those circumstances which he supposed might happen.

Q. Now will you tell us what those circumstances were which he supposed might happen?

A. He said that if *government* should deprive the people of the trial by jury and the liberty of the press, and stop up every avenue to discussion and enquiry, in such a case he hoped there was not a citizen in the room that would not be willing to lose the last drop of his blood in defence of those privileges.

Counsel. Continue.

Witness. He said that if the soldiers——

Counsel. Stay—Did this follow immediately?

A. Not immediately: it did follow.

Counsel. Proceed.

Witness. If the soldiers were called upon to fire on the people, while struggling in the cause of liberty, they would not be willing to act against them.

Q. Was that all?

A. I believe it was.

Q. You say this did not immediately follow, but that something was said between; now did it relate to the liberty of the press and the trial by jury, or to a reform in parliament?

A. It related to neither: I think it related to the introduction of foreign troops.

Q. Which had been last mentioned?—*A.* I do not know.

Q. Wha

Q. What do you understand by the people struggling in the cause of liberty—and the soldiers being unwilling to fire upon them?

A. I understand this—that if the soldiers were called upon to fire on the people, while contending for the liberty of the press, and the trial by jury—that, in such a case, they would not act against them.

Q. Did he talk of it as what had already happened, or only as a supposable case?

A. Only as a supposable case—his words were, “if it should happen.”*

Q. What did he say respecting foreign troops?

A. That government was introducing foreign troops, who, not having relations and friends in the country, to whom they were attached, would be ready to execute any orders their superiors might give them; but if the defence of the country was entrusted to those who had relations and friends, they would feel an interest in the preservation of liberty.

Q. And this was said in the interval?—A. Yes.

Q. Have you made use of the exact words, or the sense only?

A. To the best of my recollection, they are the exact words—and I would just observe, that I have had nothing to assist my memory but the indictment.

Q. Let us understand you—do you mean to say, that what was said respecting force, related to a time when the people might be deprived of the liberty of the press and trial by jury?

A. Exactly so.

Q. Are you a member of any political society?

A. I am not; I do not know that there is any such society now*.

Q. You was a member?

A. Yes; but I believe the society is dissolved—I never attended more than six nights.

Q. Were you a member before Mr. Binns came to Birmingham?—A. No.

Q. When was the next time that you saw Mr. Binns after the meeting?

* It is with pleasure I announce, that there is a Society in Birmingham, and that it daily increases in numbers. If respectability is to be attached to moral rectitude, rather than to worldly wealth, they may contend for respectability with the most opulent. If the Friends of Reform in Birmingham were to organize themselves, and boldly declare their sentiments, its enemies would soon hide their diminished heads.

A. I

A. I saw him some time after, when he was before the magistrates, at the Public Office.

Q. When did you receive a copy of the indictment?

A. Soon after Mr. Binns had obtained it.

THOMAS CLARK,

[Cross-examined by Mr. COKE.]

Q. Have you many scholars?—A. Not many.

Q. Do you teach them latin and greek?—A. No.

Q. You teach them politics, I suppose?

A. No; I teach them writing and reading.

Q. You teach them writing and reading, and you go to learn politics of Mr. Binns?

A. I do not go any where to learn politics.

Q. Was it not to learn politics that you went to the meetings of the society? You say you attended but six nights?—A. Only six nights at the utmost.

Q. Was it not because the society never met more than six nights?

A. I am certain the society has met since I discontinued my attendance.

Q. Do you mean to tell us you have altered your politics?

A. If you mean to say that I have changed my political opinions, you are mistaken.

Q. You are not a member now?

A. I do not know whether they have erased my name or not, but I have not attended lately.

Q. What was the principal subject of Mr. Binns's discourse—was it not a reform in parliament?—A. Yes.

Q. You said something about the trial by jury, and the liberty of the press; and that, in a supposable case, the soldiers would not act against the people?

A. Not if they should be contending for the trial by jury, and liberty of the press.

Q. But you said afterwards it had no relation to this?

A. I said it did not immediately follow it.

Q. Pray what did immediately follow?

A. Some observations on the introduction of foreign troops.

Q. How came this subject to be introduced?

A. I believe it was because it had been discussed a little before in parliament.

Q. You

Q. You had a copy of the indictment?

A. Yes; a printed copy.

Q. Who gave it you?—A. Mr. Binns.

Q. And he put it into your hands, for the purpose of disproving it, if you could, with a safe conscience?

A. I knew it was his intention to subpoena me, and therefore I wished a copy.

Q. Have you a copy about you?—A. I believe I have.

Q. Be so good as to shew it me?

[The witness here delivered a copy.]

Q. Why have you made observations in the margin?

A. To refresh my memory.

[The defendant's counsel wished to have the marginal notes read; this the counsel for the prosecution declined.]

Q. When were these observations made?

A. I had made similar ones on a former copy, and when that was worn out, I procured another.

Q. Did you not make these observations last night, at supper with Mr. Binns?—A. No.

Q. On your oath—how long is it since you made them?

A. Cannot tell exactly.

Q. Is it a fortnight?—A. *Much more.*

Q. Did you not shew those notes to Mr. Binns?

A. I never did, to him, or any other person, for I thought it would be very improper.

Q. Did you not sup with Mr. Binns last night; I heard there was a jovial meeting?

A. No, I did not; I supped at a friend's house.

Q. Did you see him last night, or yesterday?—A. I did.

Q. Were you at a house called the Cottage of Content, on a late occasion*?

A. I had not that honour.

Q. Does Mr. Binns live there?—A. No.

Q. I believe the Cottage of Content contains many discontented people?

A. *I believe it contains a very happy family.*

Q. Did Mr. Binns ever instruct you how to behave on your examination?

A. He only advised me to be cool and collected.

* The Cottage of Content is a public house near Birmingham, where I had the honor of supping with a party of gentlemen a few evenings previous to my trial.

Mr. Coke. That was very good advice, coming from Mr. Binns, or any other person *.

Q. Do you know, Mr. Clark, where the county of Cornwall is situated?—*A.* Yes.

Q. Did Mr. Binns mention Cornwall?

A. Very likely. I know he mentioned Old Sarum.—[*Here was a loud laugh from every part of the Court.*]

Q. Did he say how the county of Cornwall came to have so many members; was it by their spirit of resistance to oppression?—*A.* Do not recollect.

Q. Did he name the king's ministers?

A. I rather think he did.

Q. What did he say of them.

A. That they had been favourable to the principles of parliamentary reform, *before* they got into place, but *not since* †.

Q. Did he say (*for it might very naturally happen* ‡) that his majesty or his ministers were convinced that annual parliaments were most conducive to the happiness of his subjects?

A. No, I do not remember any such expression.

Q. Will you swear it was not said?—*A.* I did not hear it.

Mr. ROMILLY.

Mr. Clark I shall not ask you a string of irrelevant questions, as my learned friend has done; but shall confine myself to the evidence.

Q. Had you not another copy of the indictment?—*A.* Yes.

Q. Were the observations the same on both?

A. The same in substance, perhaps not exactly the same words; I am desirous they should be read.

Q. You continued but a very short time a member of the society?—*A.* But a very short time.

Q. How long had it existed before Mr. Binns came?

A. I cannot tell.

* I also advised him not to lose his temper at any impertinent questions, which might be put to him by the counsel for the crown. Altho' the witness did not mention this, he seems not to have forgotten it.

† This has been too often the case, and ought to teach the people of England to place their hopes where they cannot be disappointed, namely, on their own exertions. If they associate, the public WILL, will soon be known and declared, and when declared, must be obeyed. Governments are made to obey the public will; and the laws of governments are obeyed, by being presumed to be the wish of the MAJORITY.

‡ "IF IT MIGHT VERY NATURALLY HAPPEN," is it not very extraordinary that I should be indicted for so saying?

End of the Evidence for the Defendant.

MR. PERCIVAL:

May it please your Lordship—Gentlemen of the Jury,

THE length of this trial is a pretty good security that I shall not trouble you with many observations; and indeed many do not seem to me to be necessary: and as to what Mr. Romilly has said, complaining of hardship on account of the shortness with which I opened, I think my friend has fully justified me by the length into which he has gone. I forbore, gentlemen, because if the words be proved to have been spoken, as stated in the indictment, it is impossible for any one to suppose it is not a crime; and, indeed, my learned friend does not come here to deny it: he does not pretend to deny that it would be highly criminal, if the words were spoken; but he comes here to deny and disprove the words*. How far he has been able to do this, must be left, gentlemen, to your determination.

In one instance my learned friend has certainly mistaken me:—he has made many observations on my calling the principle of sacrificing our lives for posterity a bad principle, a monstrous doctrine, and a false philosophy. I did say, gentlemen, and I still think that it is a false philosophy, and a dangerous principle, to sacrifice the interests of the present day to futurity—to take care of posterity at the expence of our present connexions. The source of all our blessings and enjoyments, is in the natural propensities and affections of the human heart; and it is not by stifling these emotions, these sensibilities implanted by nature, but by giving them full scope, that we are to look for the birth of real and genuine patriotism; for what is patriotism, but those home affections of the heart, expanded to embrace more distant objects. This is the natural progress of principle—a man begins by being a good son, a good husband, a good father, and next a good citizen; and thus he goes on to improve those principles, which God has planted in his nature.

Those who wish to stifle this principle of morality, stop up the sources of our dearest enjoyments; and that which

* Not so much to disprove the words, as to prove the connexion in which they were uttered, and thereby to prove the INTENTION.

they introduce in its stead, must lead to consequences which justify me in calling it a false philosophy. But, gentlemen, I do not think the farther discussion of this subject worthy your attention. It will be more proper to direct your attention to that subject, on which you are called upon, in the most solemn manner, to decide according to the evidence.

Gentlemen, you will please to observe, that the question at issue does not rest upon the identity of the words, as stated in the indictment, but upon the application of the words. By admitting this, my learned friend has saved me a great deal of trouble. I am ready to admit, that the witnesses for the prosecution have in some degree varied; have given various readings, as it were, of the indictment; and, in this respect, have fallen into a very natural error, which ought by no means to invalidate the weight of their evidence; especially when you consider, gentlemen, that this error has been corrected by the defendant's own witnesses.

Those particulars in which our witnesses have failed, have been proved by the witnesses of the defendant himself. This being the nature of the case, suffer me to lay before you the only question for your consideration; and that is, Whether the witnesses on our side, or the witnesses on the part of the defendant, are most correct, as to the *application* of the words. This, gentlemen, is the question; not whether the words passed, but whether they were applied to this or to that subject. The words, gentlemen, I mean, are those respecting the "soldiers," and "using force;" and you are to decide whether they were spoken as applicable to a reform in parliament, or to the liberty of the press and trial by jury.

Now, in the first place, it becomes material to compare the degree of credit you will be inclined to give to the witnesses on the one side, and on the other. It has been, I think, clearly proved, by both sides, that the great object of his mission, had no immediate relation to the liberty of the press, or the trial by jury, for these were not considered as attacked; but his business, as a delegate, was to enforce the necessity of Parliamentary Reform, and to establish corresponding Societies, for the promotion of that object. The witnesses, on both sides, tell you this was the subject, and leading feature of his discourse. In this, gentlemen, they are all agreed; and it now remains for you to decide, whether the words in question were, or were not applicable to it.

It will be impossible for me to follow the witnesses for the defendant through the whole of the evidence, neither
is

is it at all necessary. I shall just observe, that the first witnesses refer the words in question to the liberty of the press and trial by jury, but the last witness, Mr. Clark, differing from them, and indeed differing from truth, tells you it related to the introduction of foreign troops : here, you see, gentlemen, the witnesses materially differ. Great pains have indeed been taken to procure a sufficient number of witnesses *, but, in this instance, they have been rather unlucky : a greater number of witnesses have been brought than ever were before, in a cause of this nature, in this court. Mr. Romilly said, that one of my witnesses must be guilty of perjury, because he said that the word was *onset*, instead of *offset*. I am surprized my learned friend should say this man must be guilty of so heinous a crime as wilful perjury, on so slight a circumstance. The only thing this trifling variation proves, is, that the witness had not learned his part.

The circumstances connected with the evidence of the last witness, on the part of the defendant, are indeed material, and give more room for suspicion. He comes here, with a copy of the indictment in his hand—put into his hand not to prove, but to disprove the words. What would my learned friend have said, if our witnesses had come with copies of the indictment ; would he, or would you, gentlemen, have believed one word they might have said ? Would you not have believed they had been learning their lesson by heart ? Could you have believed that such witnesses deserved your credit, as honest men. No ; it must have materially discredited their evidence. It is worth while, gentlemen, to observe what was done with respect to the first witness : Mr. Binns called and put a copy of the indictment into his hands, without waiting even to speak a word ; but knowing he had put it into safe hands, he tells his attorney he might subpoena this man without examination : now is it likely that the defendant would have been at the expence of bringing this witness, without once enquiring whether he knew any thing of the matter, as it is pretended he did. I do not take upon me to say that this man is guilty of perjury, but I must say he is not entitled to your credit, under circumstances so suspicious. When you reflect, gentlemen, that six witnesses come here without having ever had any conversation with each other, without comparing notes, and agree with such accuracy, with respect to

* If I had deemed it necessary, I might have brought three times the number, without being at " great pains" to procure them.

the general expressions, which they swear to ; *not* agreeing as to the sense, and varying as to the particular expression, as is the case with the witnesses for the prosecution ; you cannot, gentlemen, if you have any knowledge of business, or of the human heart, believe that these men speak from their own recollection, but must speak in consequence of uniform previous instruction.

Gentlemen, the nature of the evidence for the defendant is for the most part merely negative, and this ought to make a due impression on your minds. Of many material points they can only say they do not recollect such expressions. Two witnesses have positively sworn that the defendant said his majesty had refused annual parliaments and universal suffrage to his natural subjects, the people of this country. The witnesses for the defendant can only say to this, that they do not remember such words ; and, upon this testimony, you are called upon to believe (if it be possible you can) that the words were not spoken.

The bare circumstance of a man standing up in a public manner, to give lectures on political subjects, and appearing in the character of a delegate, with instructions in his hand, pointedly addressed to the meeting, was alone sufficiently novel and extraordinary, to have attracted particular and public notice ; for this was a more uncommon thing than any part of the proceedings ; and yet, when these witnesses are examined, with respect to what they recollect of these instructions, their memory is exceedingly defective, they can scarcely remember a single sentence ; and why ? the reason I think is pretty evident—they were not instructed to carry this in their minds ; and yet, some part of the instructions contain passages so striking, that it is truly astonishing that men, who have so exact and retentive memories in other respects, should retain no traces of these in their minds. I shall repeat one or two of the passages ; and, gentlemen, I think you will agree with me, that they were calculated to produce a very deep impression. (Reads.)

“ This part of your mission effected, you are to strain every power of your mind, to awaken the sleeping spirit of liberty ; you are to call upon our fellow citizens to be ready, with us, to pursue our common object, if it must be to the scaffold ; or rather (if our enemies are desperate enough to bar up every avenue to enquiry and discussion) to the field, at the hazard of extermination ; convinced, that no temper
less

less decided than this, will suffice to *regain* liberty, from a bold usurping faction."

Of this remarkable quotation, the witnesses had not the slightest recollection; but they have likewise forgotten another, which is, if possible, still more striking.

"You are always to reflect, that you are wrestling with the enemies of the human race, not for yourselves merely, for you may not see the full day of liberty, but for the child hanging on the breast; and that the question, whether the next generation shall be free or not? may greatly depend on the wisdom and integrity of your conduct, in the generous mission which you and your fellow-deputies now take upon yourselves."

Gentlemen, it is impossible that a person, paying any attention to the speaker, could have forgotten such a passage as this; and after this, I think the arguments of my learned friend, will hardly induce you to give much credit to the evidence of men, whose memories are so remarkably defective in some things, while they retain even the slightest minutiae in regard to others.

Gentlemen, I beg leave once more to observe, that the question is, whether the language which has been proved to have been used by Mr. Binns, and which is corroborated by many passages in the instructions, had or had not reference to a parliamentary reform. Two witnesses for the prosecution have positively sworn in the affirmative, and have confirmed it by evidence which carry every appearance of truth; and it is only attempted to be disproved by the negative kind of evidence, which I just now mentioned. Of the different degree of credit to which these kinds of evidence are entitled, I have already sufficiently enlarged; and as I cannot suppose that the least shadow of doubt can possibly remain on your minds on this subject, I shall not take up more of your time.

Gentlemen, you must see the propriety of producing these papers in evidence; they tend materially to confirm the truth of the testimony of Mr. Guest and Mr. Sutton, and they contain expressions of the same import with some of those in the indictment, and have not been contradicted by a single witness for the defendant.

I see, gentlemen, you are almost tired; permit me, however, before I conclude, to make a few observations on the credibility of the witnesses; and once more let me remind you,

you, that you have not to decide as to the particular words made use of, as my learned friend admits, and as his lordship will inform you, but only as to their application.

My learned friend seems to triumph in the number of his witnesses; but he well knows that two witnesses are as good as two hundred *. He says he should not be surprised if his witnesses varied as to particular expressions, but that he should not like them the less on that account. It would have been handsome to have made the same allowance on my account, and to have extended that indulgence to others which he demanded for himself.

The first objection which is made to the credibility of our witness is, that he took notes; but it appears that one of the witnesses for the defendant also took notes; but I do not see that they are the less entitled to credit on this account. Mr. Guest says he took notes for the purpose of refreshing his memory; and it appears he brought them with him at the last assizes †, but now, not conceiving them necessary, because he well knew the contents, he had left them at home; there is nothing in all this that can impeach the veracity of this witness, or that can lessen the credibility of his deposition.

I must avail myself of another observation of my learned friend, with respect to this witness. He forbore to press him, he says—but why? I can conceive no other reason than because he could not, with any advantage; and yet he attacks him, as guilty of wilful perjury, on the frivolous observation of using the word *onset* for *outset*.

It is objected, that we have not brought more witnesses. As to Mr. Carver, we have forbore to examine him, for a very obvious reason: his memory might be imperfect; and little credit might be thought due to a man who is subject to temporary derangements of intellect; there was no harm, however, in having him here, as we were still left at liberty to use our own discretion. With respect to the constables and Mr. Wooldridge, it is sufficient to remark, that they were not present during the whole time, but were in and out; consequently, could have heard nothing but partially: but this objection is, in fact, of no force whatever; two witnesses being sufficient for any legal purpose; and whether it is more

* They may in the eye of the law, yet not in the judgment of the jury. Does it not sometimes happen that reason and common sense are in opposition to law, and courts of law?

† See Guest's cross-examination, page 20.

likely that two men only should be found, or that many should agree in the same story, and the same words, must be left, gentlemen, to your decision.

Gentlemen, great pains have been taken by my learned friend to persuade you that the variations in the evidence and the indictment are material, and such as destroy the credibility of their testimony. I cannot believe you will attach so much weight to these variations; but that they will appear to you such errors, as men, speaking from the best of their recollection, will naturally fall into; as, for instance, the words onset and outset; which, in this context, cannot alter the sense, but may very well be construed to mean just the same thing.

Gentlemen, you have now the whole of the evidence before you; and you are carefully to weigh and ascertain the degree of probability or certainty, which results therefrom, in connexion with the paper of instructions which you have heard read: you will consider what words have been proved, as stated in the indictment, and what importance ought to be attached to the variations in the evidence: you will consider the credibility of the witnesses, on the one side and on the other: you are to consider, whether two men of fair characters, would, of their own accord, and *seemingly* without any interested motives, come here to perjure themselves: you are to determine and distinguish the different degrees of credit to which persons are entitled, who speak to what they *do* know, in preference to those who speak only from what they *do not* know: and after duly weighing all these circumstances, you are to give your verdict accordingly.

If you believe that the defendant was actuated by honest and laudible motives, that he spoke neither the words contained in the indictment, nor any words capable of a similar construction; if you believe that what was said about force, applied *not* to a reform in parliament, and that the defendant did not recommend forcible means to obtain a reform, you must acquit him: but if, on the contrary, you think the words proved, in substance at least, and that their application was such as is stated in the indictment, you must give a verdict for the crown.

SUMMING

SUMMING UP.

MR. JUSTICE ASHHURST.

Gentlemen of the Jury,

THE great length of time which has already been engaged in the present trial, will prevent me from troubling you with any observation, except such as I shall deem absolutely necessary, in the discharge of my duty, between the crown, and the defendant, who is the object of this prosecution.

I shall reserve whatever remarks I shall submit to your consideration, until I have repeated to you the evidence which has been adduced to support the charge; and also that which has been brought forward by the defendant.

[Here his lordship recapitulated the whole of the evidence.]

This, gentlemen, is the whole of the evidence. You are, in the first place, to consider, whether the words contained in the indictment were spoken by the defendant; and, in the next place, whether they were spoken with the intention there charged: that is, whether they had reference to the subjects contained in the indictment, or to those which have been urged in the defence—and this is a very important consideration.

In the first place, with respect to Corsica, the words in the indictment are, that “his majesty and his ministers are well convinced, that annual parliaments and universal suffrage are most conducive to the happiness of the people, and have granted it to Corsica, though he has withheld that right from his natural subjects.” Gentlemen, the words of the first witness, Joseph Mason Guest, are, that his majesty was *aware* that such were most conducive to the happiness of his people. The grammatical signification of these sentences, are not the same; and you, gentlemen, must consider what meaning they will bear, and exercise your judgment thereon. Benjamin Sutton,

Sutton, the other witness, says the words were, his majesty was *aware* that it was not *inconsistent* with the happiness of his people—this is still wider from the indictment, and is different from the evidence of Guest. On the other hand, the witnesses called by the defendant, deny that this was said of his majesty; but that he (John Binns) was convinced, and so forth. You, gentlemen, are to decide what degree of credit is to be given to these witnesses respectively; and on the whole, to determine whether this charge is substantiated. You have been told, by the counsel for the prosecution, that these variations do not materially affect the sense; but on this you are to exercise your judgment, and thereby form *your determination*.

In the next place, with respect to the third count, the words in the indictment are,—“our object is to obtain it by every peaceable means in our power, for it would be shocking to humanity to shed the blood of our fellow-creatures; but if they continue obstinate, and there should be a time when force is necessary to be used, I hope there is not a citizen in the room but would shed his last drop of blood, either in the field or on the scaffold.” These words, or words of the same import, were positively sworn to by Joseph Mason Guest: but the other witness, Benjamin Sutton, does not swear to this; on the contrary, he says, he understood Mr. Binns, their object, namely, a reform in parliament, was to be brought about by legal and peaceable means. All the witnesses for the defendant agree, that the latter part of these words were spoken, namely, “that if there should be a time when force was necessary to be used, I hope there is not a citizen in the room,” and so forth. These words, or words of exactly the same import; are admitted to have been spoken by the defendant's own witnesses; but they deny that these words referred to the obtaining a reform in parliament; and they explain it thus—that if there should come a time when ministers, or government, should be daring enough to endeavor to wrest from us the right of trial by jury and the liberty of the press, and force should be necessary to be used for the preservation of those rights, that in such case he hoped there was not a citizen, &c. &c.

Gentlemen, you are here to consider what degree of credit is due to one witness only (Guest) in opposition to six produced by the defendant; this, gentlemen, is the most important point for your consideration, for on this depends the merits of

the case: if you think Mr. Binns only recommended force in case of a deprivation of the trial by jury and the liberty of the press, you will acquit him, for it is possible that cases may arise in which resistance would not only be lawful but commendable, but if you think he recommended forcible means for the purpose of obtaining a reform in parliament, you must convict him; for that would be highly criminal, and as inflammable language as could be made use of to come within the crime of sedition: and this you will do, though the words proved be not literally the same as those in the indictment, provided you think they had a seditious tendency, and were spoken by Mr. Binns with the intentions laid in the indictment.

Gentlemen, the fourth count relates to the soldiery. The words in the indictment are—"if the soldiers were called upon to act against you, like the national guards, who were called upon to fire on the people in the outset of the revolution in France, they would not dare to draw the trigger or push the bayonet against the preservers of their freedom and their liberty." Now, gentlemen, these words are positively sworn to by the first witness (Guest) with the trifling variation of onset for outset. A great deal has been unnecessarily said about these words—on the part of the crown to persuade you that they are nearly synonymous; and on the part of the defendant to prove that they mean very different things. Gentlemen, you need not give yourselves any trouble on this point, for though the variation might seem to you trivial, and sufficient to confirm the testimony of the witness, and indeed, in this place, onset *might* be very well substituted for outset, without materially altering the sense: yet, in this case, this is not the point—the question is not, whether the words were spoken, for this is admitted by some of the witnesses for the defendant, but the question is, What application had they? Did they refer to a time when the people might be contending for the right of trial by jury, and for the liberty of the press, or rising in an illegal and rebellious manner, to enforce a parliamentary reform? for, as I have already told you, gentlemen, *it would not only be commendable, but the bounden duty of every man to take arms, and resist the attempts of the executive power, if it strive to wrest from the people the liberty of the press, and trial by jury: so it would be highly criminal and rebellious to attempt a reform in parliament by forcible means, or to recommend forcible*

eible measures as a means to obtain it :—so that the question here is the same as in the third count, namely, in what case force was recommended as justifiable to be employed.

Now, to determine this question, it will be necessary to attend very minutely to the evidence. Mr. Guest says, peaceable means were to be employed to gain their ends, but if these failed, and their opponents continued obstinate, force was to be used ; and being asked what their ends were ? he said, universal suffrage and annual parliaments. You have been told that the word opponents, might not mean his majesty and his ministers. You will exercise your judgment on this. Mr. Guest admits, in his cross examination, that the parts of the speech were detached parts ; and that they might have been spoken in a different order from what he has given them in evidence. The evidence of the other witness, Mr. Sutton, is not material ; he does not swear positively to what was said about the soldiery, or force ; but says the defendant recommended peaceable measures.

The witnesses for the defendant all uniformly agree in saying, that the words were not used as applicable to a parliamentary reform ; and that Mr. Binns recommended no other than peaceable means to obtain this end. It appears, likewise, from these witnesses, that the subject of reform was more particularly treated of in the beginning of his speech, and the trial by jury, and the liberty of the press, at or near the end. It also appears, that the time in which he talked about force, and the soldiery, was near the conclusion, if you believe these witnesses. I have nothing particular to remark as to the credibility of the witnesses ; there is, indeed, a remarkable coincidence in the evidence for the defendant, which the counsel for the crown has told you can only be the consequence of previous instruction. You have also been told that the witness for the crown is perjured. On all these points you are to decide according to the best of your judgment.

Gentlemen, you have now the whole of the evidence.—I shall not detain you any longer. You have two questions only to consider, first, whether the defendant said that he himself, or that his majesty was well convinced that annual parliaments and universal suffrage were most conducive to the happiness of the people, and so forth : and, secondly, whether force was recommended as a means of obtaining a parliamentary reform

If you are of opinion that it was, or that the defendant spoke the afore said words concerning his majesty; you must convict him; but if not, you must give a verdict accordingly.

Gentlemen, I recommend to you to retire from court, and take time for deliberation; and when you are agreed, you may bring your verdict to my chambers, where I shall be ready to receive it.

The court was adjourned at eight o'clock (having sat twelve hours); the jury having withdrawn to the grand jury room to consider their verdict, his lordship retired to his chambers, where he was followed in about three hours by the jury, who returned a general verdict of

NOT GUILTY.

E. A. B. P.

1/17/06

